



Costs Decision

Site visit made on 22 June 2021

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 September 2021

Costs application in relation to Appeal Ref: APP/L2630/D/21/3268904 19 Patteson Close, Cringleford NR4 6XX

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Jim Sadler for a full award of costs against South Norfolk District Council.
 - The appeal was against the refusal of planning permission for single story workshop and garage extension to existing garage.
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Decision

1. The application for a full award of costs is allowed.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Although the applicant's submissions are fairly limited, there is sufficient evidence before me to consider whether or not the Council acted unreasonably and whether any such behaviour directly caused the applicant to incur unnecessary and wasted expense as a result of the appeal.
4. The Council refused the application on the basis of the potential future pressure to undertake works to adjacent trees, which are protected by Tree Preservation Orders. The reason for refusal does not specify which trees in particular are affected and relies on the potential future harm which may arise as a result of actions of the occupants. Whilst the reasons given are not particularly precise, they are sufficiently substantiated within the case officer's report. Despite this, I found that there was no harm in relation to the original reason for refusal, as addressed in the appeal decision letter.
5. After the appeal was submitted, I sought clarity from the Council as to whether the construction method of the proposed development, which extends into the root protection area (RPA) of two protected trees, could be controlled by condition. The Council's response outlined that the incursion of the development into the RPAs was not sufficiently justified and that the construction method could not be sufficiently controlled by condition on this basis. Whilst I concluded that the applicant had sufficiently justified the location of the development within the RPAs, I was not satisfied that the construction method could be controlled by condition. This was because the applicant had not submitted a site-specific scheme relevant to the development and sufficient

to confirm that the protected trees would not be harmed. I dismissed the appeal on this basis.

6. Having regard to the evidence provided, the Council has introduced additional grounds, which were not part of their original case. I dismissed the appeal on the new grounds. However, I did not find any harm in relation to the original reason for refusal. The PPG provides examples of instances where Local Planning Authorities can be considered to have acted unreasonably, including:
'introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen'
7. Had the applicant been aware, prior to making the appeal, of the additional issues raised by the Council, then it is reasonable to conclude that he may have chosen not to pursue the appeal. On this basis, the applicant has been put to unnecessary and wasted expense in preparing for and making this appeal. The Council has therefore acted unreasonably on procedural grounds, contrary to the basic guidance in the National Planning Policy Framework and the PPG.

Conclusion

8. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Norfolk District Council shall pay to Mr Jim Sadler, the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to South Norfolk District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Luke Simpson

INSPECTOR