



Costs Decision

Site visit made on 4 October 2021

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th October 2021

Costs application in relation to Appeal Ref: APP/F3545/W/21/3272887 New England Cottages, New England Lane, Cowlinge, Suffolk CB8 9HP

- 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 and Mrs Robson for a full award of costs against West Suffolk Council.
 - The appeal was against the refusal of planning permission for the replacement of two semi-detached dwellings with two new detached dwellings.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In this case the appellant argues that the Council acted unreasonably in failing to work proactively, failing to adhere to their pre-application advice and failing to state a clear and precise reason for refusal by making vague, generalised and inaccurate assertions. The Council therefore caused the appellant unnecessary expense in having to pursue an appeal.
4. Whilst the Council have not responded to the application for costs the handling of the application is clear from the appeal documentation. Contrary to the views of the appellant, the Council have acted proactively on a consistent basis, offering advice following a previous refusal of permission, paid pre-application advice and advice seeking amendments to the submitted plans during the course of the application. This included advice dated 15 October 2020 which was not acted upon by the appellant. Whilst the appellant was fully entitled not to amend the plans further the subsequent refusal should not have come as a surprise and the appeal with its associated costs was the choice of the appellant.
5. Pre-application advice is not binding on the Council and in this case the nature of the advice related to what might constitute an acceptable design which is a subjective matter and hence could be interpreted in different ways. The Council were entitled to continue to seek amendments to the appellant's revised designs and whilst this may have been frustrating this did not amount to unreasonable behaviour.

6. Turning to the reason for refusal, this certainly could have been more concise but was not vague, generalised or inaccurate. The description of nearby development is subjective and the concern over the requirements of Policy DM5 was clearly set out together with other concerns relating to the design of the scheme. The appellant also had the advice dated 15 October 2020 which effectively supplemented the decision notice in this case. The Council therefore clearly explained its concerns in relation to the proposal and did not delay a development which should clearly have been permitted.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

David Reed

INSPECTOR