
Costs Decision

Site visit made on 26 October 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2021

Costs application in relation to Appeal Ref: APP/E2530/W/3276384 Wayside, Main Street, Foston NG32 2JU

- 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 Sercan Sozugen for a full award of costs against South Kesteven District Council.
 - The appeal was against the refusal of planning permission for a change of use of a dwelling (C3a) to a children's care home (C2) with a maximum of three children and two carers working on a rota basis sleeping overnight.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises through paragraph 028 that costs may 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. Costs may be awarded to any party regardless of the outcome of the appeal.
3. Paragraph 047 of the PPG provides a non-exhaustive list of examples of unreasonable behaviour by local planning authorities. This includes substantive matters, such as a failure to provide evidence to substantiate the reasons for refusal.
4. Specifically, it is alleged that consultee comments were not uploaded for public access on the Council's planning portal and the decision notice and officer report following the refusal of the application were not forthcoming. Moreover, that there was a general failure of the LPA to proactively engage with the applicant prior to the determination of the planning application. The applicant considers that Council Officers were difficult to contact, that feedback indicating the planning application was likely to be refused was withheld, that the Council did not engage constructively throughout the process (contrary to the advice in paragraph 38 of the National Planning Policy Framework), and that they were not given any opportunity to engage in dialogue before the Council issued its Decision Notice.
5. Although I appreciate the applicant is dissatisfied with the quality of service received from the Council, this is a matter between the main parties to resolve through any relevant procedures. In any event, I consider this has not affected the Council's decision.

6. The Council's reason for refusal set out in the decision notice is complete, specific and relevant to the application with regards to these matters. It also clearly indicates that the proposal was determined in accordance with the relevant development plan policies. These are all matters of planning judgement, and although as is clear from my decision I disagree with their position, from the information before me I do not therefore find that it was unreasonable to refuse the application.
7. Consequently, the matter was one of a fundamental disagreement between the parties which could have only been resolved by way of an appeal. As such unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, an award of costs is not justified.

Conclusion

8. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, I determine that the costs application should fail, and no award is made.

C McDonagh

INSPECTOR