
Costs Decision

Site visit made on 2 September 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th November 2021

Costs application in relation to Appeal Ref: APP/C2708/W/21/3274180 Spring Bank House, Skipton Road, Farnhill, Keighley BD20 9BT

- 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 Peter Shearer for a full award of costs against Craven District Council.
 - The appeal was against the refusal of planning permission for a residential development of 2 no. new build semi-detached dwellings and 3 no. new build terrace houses. .
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 expense in the appeal process.
3. The PPG outlines that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. One example of such unreasonable behaviour is preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The reasons for refusal set out in the Council's decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the Craven Local Plan (2019) that the proposal would conflict with. These reasons have been adequately substantiated by the Council in its Officer Report which demonstrates how the proposal would; be contrary to development plan policy, fail to preserve or enhance the character and appearance of the Farnhill Conservation Area, and in light of the lack of information, harm highway safety.
5. Whilst I appreciate that the outcome of the application will have been a disappointment to the applicant, the Council were not unreasonable in coming to that decision, and indeed following consideration of the appeal on its planning merits alone, I have concurred with the Council.
6. The applicant has expressed concerns over an apparent unwillingness of the Council to engage in discussion surrounding the proposed development, something that the Council refute. Whilst such matters are likely to have

- caused the applicant some frustration, I find nothing to suggest that a decision was not reached on the basis of the planning merits of the proposal, as submitted by the applicant. I also find no substantive evidence that the applicant incurred any additional expense as a result.
7. The Council refer to dialogue with the applicant's appointed agent that may have manifested into a perceived or actual unwillingness or unnecessary to engage with the applicant directly. Although there is nothing to prevent separate discussions between the applicant, their agent and the Council, I can understand were there to have been a reluctance from the Council to have the same and separate discussions with the applicant and their agent. For the Council to deal with the agent appointed by the applicant in the first instance, does therefore not amount to unreasonable behaviour.
 8. There may also be occasion where the relevant planning considerations of a particular development proposal are such that no amount of discussion would overcome fundamental planning objections. In such cases a refusal of the Council to either meet or discuss how to overcome such matters would not amount to unreasonable behaviour, suffice it to say that this does not negate the Council from providing reasons for their decision and retain appropriate levels of communication.
 9. The applicant has stated that a fee should not have been required for the application. This is an administrative matter in relation to the application and does not relate to costs incurred during the appeal process. It is therefore not a matter before me. Similarly, the Council's request for information relating to flooding and biodiversity were not unreasonable given that these are matters the applicant would need to address in any event. As the Council appear to have been satisfied on these matters in their assessment, they did not result in unnecessary or wasted expense in the appeal process.
 10. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The applicant had to address those concerns in any event.
 11. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated. Therefore, a full award of costs is not justified.

A M Nilsson

INSPECTOR