



Costs Decision

Site visit made on 13 January 2022

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 FEBRUARY 2022

Costs application in relation to Appeal Ref: APP/U2615/W/21/3272101 Land adjacent to Asda, New Acle Road, Great Yarmouth NR30 1RL

- 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 J Maitland for a full award of costs against Great Yarmouth Borough Council.
 - The appeal was against the grant subject to conditions of planning permission for removal of condition 1 and variation of conditions 2, 3 and 6 of planning permission 06/19/0180/CU.
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance advises 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.
3. The application is made on the basis that the Council introduced consideration of Policy CS17 of the Core Strategy¹ (CS) at appeal stage. This policy was not referred to in the Council's delegated report and does not appear to have been considered relevant when the application was determined. The applicant requested further information from the Council following its decision, but no final response was provided. The information requested concerned the production of a supplementary planning document (SPD) for regeneration of the Waterfront area and a development company tasked with securing regeneration.
4. The applicant states that the late introduction of these points caused him to undertake further work in connection with the appeal, whereas this would not have been necessary if these points been fully explored during the planning application process.
5. Because the site lies within the Waterfront area as identified in the CS, Policy CS17 is a relevant development plan policy. The reason given for condition 1 on the Council's decision refers to retention of control until the effects of the development have been experienced and in the interest of the amenities of the locality. Consideration of the requirements of Policy CS17 is relevant to consideration of the amenities of the locality as referred to in the reason for the condition.

¹ Great Yarmouth Local Plan: Core Strategy 2013-2030 (2015)

6. The applicant referred to that policy in its Planning Statement submitted with the planning application. The Council does not however appear to have had regard to that policy in determining the application as it is not mentioned in the delegated report.
7. Whether or not this was the case, the Council did refer to Policy CS17 in its appeal statement and this was the correct approach. Although I appreciate the applicant's concern about an apparent change to the Council's case, this was not unreasonable behaviour.
8. Following the Council's decision, the applicant requested further information from the Council. The Council provided an initial response but did not respond to the applicant's e-mail of 26 October 2021 and did not provide the information requested. This indicates a lack of co-operation on the part of the Council which amounts to unreasonable behaviour. Further information about the production of the SPD and the development company would have been highly relevant to the applicant's case especially given the Council's focus on Policy CS17 in its appeal statement.
9. Notwithstanding this, in the absence of an SPD it seems that the Council would only have been able to provide limited information. It is not clear that the lack of cooperation by the Council in this respect necessitated any significant level of extra work or expense by the applicant in pursuing the appeal.
10. For these reasons I find that unreasonable behaviour, resulting in unnecessary or wasted expense has not been demonstrated.

Nick Palmer

INSPECTOR