



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: 10 February 2022

Costs application in relation to Appeal Ref: APP/Y2620/W/21/3272944 5 Meadow Way, Sheringham NR26 8NF

- 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 Stephen McDermott for a full or partial award of costs against North Norfolk District Council.
 - The appeal was against the refusal of planning permission for the erection of a single detached property within the garden and adjacent to the existing property.
-

Decision

1. The application is refused.

Reasons

2. The application is made on substantive and procedural grounds. The claimed substantive grounds are, firstly that the Council did not take into account a change in national policy since the previous appeal decisions relating to the site. Neither did the Council assess the proposal any differently to those previous proposals and other relevant decisions in the local area were disregarded.
3. With regard to the second and third reasons for refusal, which concerned impact on trees and living conditions, the application is made on the basis that those matters can only be properly assessed on the basis of details of the development including layout which were reserved matters.
4. The procedural unfairness that is alleged is that the Council did not proactively raise its matters of concern with the appellant prior to making its decision.
5. 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.
6. The first reason for refusal concerned the lack of adequate visibility at the junction of Meadow Way with Holt Road. In reaching its decision the Council took account of the highway authority's objection to the development which referred to three previous appeal decisions dating from 2001, 2010 and 2011.
7. I have found in my decision on the appeal that the junction visibility falls well below the relevant highway safety standards. The previous appeal decisions preceded the publication of the National Planning Policy Framework (the Framework). This was first published in 2012 and has since been updated. The Framework is clear that it requires safe and suitable access and that there

is no unacceptable impact on highway safety. The Framework does not alter the position that the unacceptable impact on highway safety found by the previous Inspectors remains unacceptable.

8. Two of the previous appeals were for a single dwelling on the site and therefore similar to the appeal proposal in terms of traffic generation. While one previous appeal concerned two dwellings with potentially higher traffic generation, the highway safety objection remains.
9. I have noted in my decision on the appeal that the circumstances of individual proposals vary. For this reason, the Council acted reasonably in its decision with regard to other decisions in the area.
10. With regard to the second and third reasons for refusal, matters of siting and design were not before the Council. However, I have found that it is clear that the protected trees and their root protection areas would constrain the siting of the proposed development and that the proposal would be likely to result in impact on the protected trees.
11. Although I have found that harm to the living conditions of the occupants of the existing dwelling has not been demonstrated the Council exercised its judgement in its third reason for refusal. Because it is evident that siting would be constrained by the trees, the Council's third reason was not unreasonable. In any case, it is not evident that the third reason has necessitated any significant additional expenditure in the appeal process.
12. The Council was under no obligation to request additional information from the applicant and reached its decision on the basis of the information that had been submitted. The applicant did not seek pre-application advice from the Council. The planning officer expressed his concerns about the effect of the tree roots on the siting of the dwelling in a number of e-mails to the applicant before the Council made its decision. The applicant was also aware of the highway authority's objection before the Council made its decision. Even if additional information had been requested to address the Council's concerns regarding impact on trees and on living conditions, the Council's fundamental objection on grounds of highway safety would have remained.
13. I therefore find that unreasonable behaviour, resulting in unnecessary or wasted expense has not been demonstrated.

Nick Palmer

INSPECTOR