

Costs Decision

Site visit made on 8 July 2022

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 July 2022

Costs application in relation to Appeal Ref: APP/J0540/W/22/3291975 Black House Farm, Crowland Road, Eye, Peterborough PE6 7TP

- 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 Heather Phillips for a full award of costs against Peterborough City Council.
 - The appeal was against the refusal of planning permission for conversion of farm buildings to 2no. holiday lets.
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Decision

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

Reasons

2. The application for costs is embedded within the appellant's appeal statement. I have interpreted it as seeking a full award on the basis that the Council acted unreasonably during the determination of the planning application and prevented or delayed a development which should clearly be permitted. 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. PPG paragraph 16-049-20140306 sets out the scenarios where unreasonable behaviour by a local planning authority may give rise to a substantive award of costs. This includes, amongst other things, preventing or delaying development which should clearly be permitted, failure to produce evidence to substantiate a reason for refusal at appeal and not determining similar cases in a consistent manner.
4. The appeal proposal was recommended by officers for approval in a detailed report to the Council's Planning and Environmental Protection Committee on 6 July 2021. The report at page 4 records the objection of the City Council's Highway Services. Section 5(d) of the report deals with matters of highway safety and begins with setting out again the objections of the Local Highway Authority. Whilst the officer acknowledged that the width and visibility of the access track was "not ideal", their overall judgement, looking at the scheme as a whole, was that the access should be considered sufficient for the development proposed.
5. The published minutes to the Committee meeting clearly record that Members clarified and sought confirmation of the Local Highway Authority objection and clearly gave great weight to this together with other related evidence presented to the Committee. Overall, the minutes of the Committee meeting,

demonstrate that the Council had reasonable planning grounds for taking a contrary decision to the advice of their professional officers. The Council subsequently produced a clear and specific reason for refusal. Furthermore, the Council, including the correspondence as part of the appeal from the Local Highway Authority reaffirming their objection, has produced relevant evidence for the appeal to substantiate its decision. As I have set out in my separate decision I share its view, in respect of highway safety, that the proposal would be unacceptable.

6. With regards to the assertion that the Council has behaved unreasonably in respect of inconsistency in approving the neighbouring 'Fenvale' site in 2016, the starting point is that each proposal should be considered on its own merits and circumstances. I have set out separately in my decision that there are material differences in relation to the access points onto Crowland Road which would justify an alternative conclusion in relation to highway safety. Accordingly, there is not sufficient comparison with 'Fenvale' to demonstrate that the Council's Committee behaved unreasonably in giving the weight it did the objection from its Highways Services consultee.
7. Taking all of this into account I do not find on the main issue in the appeal, on substantive grounds, that the Council has unreasonably prevented or delayed a development which should clearly be permitted, having regard to the development plan, national planning policy and any other material considerations in the terms expressed at PPG paragraph 16-049-20140306.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated in relation to the appeal.
9. For the reasons given above, I refuse the application for an award of costs.

David Spencer

INSPECTOR.