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## Costs Decision

Hearing Held on 19 July 2022

Site visit made on 20 July 2022

**by M Chalk BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 August 2022**

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### **Costs application in relation to Appeal Ref: APP/W0530/W/22/3296588 Butts Farm, Malton Road, Orwell, SG8 5QR**

- 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 P & Mrs J Lawrence for a partial award of costs against South Cambridgeshire District Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for erection of a new dwelling.
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### **Decision**

1. The application for costs is refused.

### **The submissions for Mr P & Mrs J Lawrence**

2. The costs application was made orally at the hearing. The applicants claim that the Council acted unreasonably in not assessing evidence provided with the appeal specifically addressing the Council's first reason for refusal. The Council only acknowledged during the hearing that it had not received appendices submitted with the appeal that directly addressed the justification for the proposed dwelling. It should have sought these appendices earlier. Once the Council reviewed the appendices it dismissed the evidence out of hand, and the applicants consider that it was not properly considered as the evidence went to the heart of their case. This amounted to unreasonable behaviour on the part of the Council, and had the evidence been reviewed earlier then there may not have been the need for a hearing.

### **The response by South Cambridgeshire District Council**

3. The Council gave its response at the hearing. It states that it did not receive the information in the appendices provided with the appeal. The appendices were provided on the day of the hearing and reviewed by the Council, who responded on the same day. Having reviewed the evidence the Council maintained that its reasons for refusal were justified.

### **Reasons**

4. National Planning Practice Guidance on planning appeals and the award of costs advises that costs may be awarded where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process.

5. The Council received the appellant's statement a considerable time before the hearing. The appendices were detailed in the contents page and referred to throughout the statement. The Council had ample time to query the missing appendices, which provided information critical to the applicants' case.
6. The Council therefore acted unreasonably in not identifying the missing appendices prior to the hearing. However, having been given time to review the information within them, they provided a response during the hearing. There was no significant delay in proceedings as a result of the Council's actions.
7. I also do not consider that the need for a hearing could have been avoided had the Council been in receipt of the appendices at an earlier date. The applicants sought a hearing as their preferred type of appeal, and there was a need to test the evidence by questioning with specific reference to whether there was a justified need for a dwelling.
8. I do not therefore consider that the Council's actions have resulted in unnecessary or wasted expense to the applicants in the appeal process.

*M Chalk*

INSPECTOR