The Planning Inspectorate

Costs Decision

Hearing held on 10 August 2022

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2022

Costs application in relation to Appeal Ref: APP/L2630/W/22/3296988
Land North of Heath Loke, Poringland, NORWICH, NR14 7JU

- 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 Boardwalk Property Developments Ltd for a full award of costs against South Norfolk District Council.
- The hearing was in connection with an appeal against the refusal of outline planning permission for Erection of up to 19 dwellings with all matters reserved except for access.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. Examples of unreasonable behaviour which may result in an award of costs include lack of cooperation with the other party, delay in providing information and not agreeing a statement of common ground in a timely manner.

3. The applicant considers that the Council acted unreasonably in their failure to agree a statement of common ground in a timely manner and I am aware that these delays resulted in the submission of information in the days leading up to the start of the hearing.

4. However, whilst the Council accepts there was a delay in agreeing the statement of common ground and in particular the five year housing land supply position, discussions were taking place between the parties throughout and some evidence was only available to them in the weeks leading up to the Hearing.

5. Matters were complicated by the council needing to take into account the effects of nutrient neutrality following advice from Natural England and then the publication of both a ministerial statement and a letter from the Chief Planning Officer in relation to this matter a few weeks before the start of the hearing.

6. I therefore think that there were a number of circumstances outside of the Council's control which led to difficulty in establishing a statement of common ground. However, this was provided before the start of the hearing with the parties coming to an agreement on the land supply position.

7. Whilst I understand the sense of frustration which delays might have, it would not be reasonable to conclude that the Council had behaved unreasonably in the procedure leading up to the appeal on the basis of the information before me. Despite the delays in providing the statement of common ground the Hearing was able to take place without adjournment.

8. I have had regard to the previous appeal decision[1] and the findings of the Inspector in that case. The Council have not departed from the overall findings of the previous Inspector in relation to character and appearance. They were still required to reach a finding on whether the proposal adhered to the policies of the development plan and then explain what weight they were giving any conflict. This is a matter of planning judgement. 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.

9. The applicant has indicated that the delays led to unnecessary or wasted expense in terms of the preparation of the statement of case, statement of common ground and the attendance at the appeal hearing. However, as I consider that the appeal could not be avoided these would all be necessary requirements in order to take part in the appeal process.

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

G Pannell

INSPECTOR

[1] APP/L2360/W/18/3209464