

Costs Decision

Site visit made on 15 August 2022

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2022

**Costs application in relation to Appeal Ref: APP/F3545/W/22/3291869
Rose Bank, Burton End, Haverhill, Suffolk CB9 9AD**

- 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 Mark Simpkin for a full award of costs against West Suffolk Council.
 - The appeal was made against the refusal of planning permission for two 2 storey, 3 bed semi-detached units with bin & bikes secure storage, car parking, new vehicular crossover onto York Road, boundary treatments and landscaping.
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Decision

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

Reasons

2. *Planning Practice Guidance* advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. It is alleged that the council acted unreasonably by its failure to produce evidence to substantiate each item in the reason for refusal; and including vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
 4. The reason for refusal clearly sets out the council's concern that the proposal would materially and adversely affect outlook, light, privacy and otherwise present as an overbearing addition when viewed in close quarters from the adjacent site. The officer report provides more detail. The decision notice is clear and the harm adequately identified. The council cannot in these circumstances be found to have acted unreasonably.
 5. Reference has been made to the pre-application procedure and a draft officer report which originally included an alternative suggested impact and outcome for the application. The pre-application advice was based on a different proposal but did offer some encouragement for a two storey development. This is a matter that has been taken up with the council directly and it would appear from the correspondence that this has been resolved. In any event, it is not a matter that has resulted in costs with regard to this appeal. The first officer report was not the formal report of the council or an approved report. Whilst it is unfortunate that the first draft of the report differed from the final approved
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draft, that too was not of relevance to the appeal proceedings.

6. The council's approved report and decision notice clearly set out the formal position of the council. This left no alternative but to appeal should the applicant wish to challenge it. I have found that the council were not unreasonable in reaching their conclusion and it was set out in an appropriate manner. The costs of the appeal were not therefore a result of unreasonable behaviour by the council. Nor has the applicant incurred unnecessary costs given that an appeal was lodged knowing fully the reasons for refusal.
7. Reference has been made to the potential for the proposal to be altered in order to overcome privacy concerns. The changes would have involved alterations to the plans and as such, were not matters that could readily be addressed by condition. In any event, it is evident that privacy was not the only concern. Revised plans were not submitted as part of the application and the council could not therefore act upon them, in any event.
8. Overall, whilst it would appear that the council acknowledged that there has been shortcomings with regard to the pre-application procedure and some inconsistencies between officers in relation to the assessment of the application, this is acknowledged by the council. With regard to the actual decision and the appeal, I am unable to conclude that the actions of the council fall within any of the examples of unreasonable behaviour set out in the *Guidance*. Whilst these are not exhaustive, I do not agree that the council has behaved unreasonably. In any event, I do not find that any wasted expense resulted from their actions. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the *Guidance*, has not been demonstrated and an award of costs is not therefore justified.

Peter Eggleton

INSPECTOR