



Costs Decision

Site visit made on 9 November 2022

by A. J. Boughton MA(IPSD), Dip.Arch, Dip.Conservation, RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2022

Costs application in relation to Appeal Ref: APP/W0530/W/22/3291085 110 Cinqes Road Gamlingay SG19 3NR

- 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 and Mrs Chris and Ruth Baglin for an award of costs against South Cambridgeshire District Council.
 - The appeal was against the refusal of South Cambridgeshire District Council to grant planning permission the erection of 5 No. Self-Build and Custom Dwellings
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Decision

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

Reasons

2. The Planning Practice Guidance advise 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.
3. The applicant alleges substantive and procedural reasons for an award of costs including a failure to substantiate refusal reason 3, delay in progressing the decision and 'vague assertions' as to the impact of the proposal. The applicant also makes extensive comment as to the Council's position as to definitions addressed by the submitted Unilateral Undertaking (UU) to which I now turn.
4. The submitted UU was considered by the appellant to address any concerns as to the eligibility of the proposal as Self Build and Custom Housebuilding (SBCH), and it is noted that the Council did not respond to that document before refusal. The applicant *'argue(s) that this was a further example of the council being given the opportunity to address their previous mistakes but choosing not to'*. As my reasoning sets out, the suggestion that the Council were in error on this point is not supported and there is no duty on the Council to negotiate matters of interpretation or to suggest how such a document should be worded, when the planning application, by its nature, raised fundamental issues which the UU did not adequately address, namely, the eligibility of the proposal as SBCH in the context of a detailed planning application.
5. The parties point to emails, and these demonstrate a degree of interaction. Although the progress of the application was slow, the applicant¹ does not demonstrate that the communication was unbalanced in the sense that the Council failed to respond at all, or wholly ignored the applicant. As such this does not demonstrate unreasonable conduct on the part of the Council.

¹ Meaning the applicant for costs

6. Turning to the 3rd refusal reason, it is clear that the applicant went to considerable lengths to provide evidence to satisfy the Council, but the Council assert that the level of information provided did not meet the 'basic level' such that conditions could be applied. It is not clear whether the Council's tree officer actually visited the site prior to the determination and my observations directed that the harm which would arise from the proposal (given what was found on site and the disposition of the proposed dwellings) would likely be limited and that any impacts arising could likely be mitigated with suitably designed measures, secured by condition. However, a difference of professional position is not indicative of unreasonable behaviour since it seems to me there were legitimately held concerns which, in the Council's view, necessitated detailed information for there to be a full grant of permission.
7. Overall, it is apparent that the decision to submit a detailed planning application rather than, for instance, an outline application perhaps with indicative proposals, added to the difficulties and delay complained of. In particular the differences between the parties as to the definition of SBCH were genuinely held and seemingly irreconcilable and opportunities to reduce the differences between the parties were inevitably limited. Whilst the appellant is plainly frustrated with the delay and positions taken by the Council, and there was very slow progress in the processing of the application, it is I find no evidence that the behaviour of the Council was unreasonable given the nature of the application itself.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Andrew Boughton

INSPECTOR