

Costs Decision

Site visit made on 13 January 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2023

Costs application in relation to Appeal Ref: APP/D2510/W/22/3302271 Land off Masonic Lane, Spilsby, Lincolnshire PE23 5QT

- 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 Graham Young for a full award of costs against East Lindsey District Council.
 - The appeal was against the refusal of planning permission for an outline application for the erection of seven dwellings, with access to be considered.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. Local planning authorities risk an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing applications or unreasonably defending appeals.
4. The PPG further makes it clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, but that behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
5. The appellant's claim, in short, is firstly that the Council failed to follow the correct procedures when determining the application by not acknowledging a request for the application to be presented to its planning committee and instead determining it under delegated powers, and also failing to upload relevant documents to its website. Secondly, it is argued that the Council repeatedly failed to respond to the appellant during the application process and delayed making a decision. Finally, it is argued that the Council failed to determine the application in a consistent manner to other permissions granted in Spilsby and to consider various material considerations relevant to the proposal.
6. In general, the Council's actions at the time of the application are matters for local government accountability. It is where those actions have a direct bearing on the appeal that may be relevant to the award of costs. On the first matter, the Council indicates that, under its scheme of delegation, the request for

committee consideration must be made within four weeks of the date of validation. In this case, the request was made nearly eight weeks after the application was validated. On the limited evidence I have, the Council was entitled to determine the application through delegated powers. Consequently, I make no finding of unreasonable behaviour in this respect.

7. In respect of its handling of documents, the Council acknowledges some were not uploaded when initially received, but argues that they were taken into consideration when determining the application. My reading of the evidence indicates this was the case, and the appellant was not disadvantaged by the absence of documents from the website.
8. In terms of communication during the application, the evidence before me indicates that the Council provided responses setting out its concerns and considered revised details submitted by the appellant. Whilst the appellant may be frustrated that dialogue did not produce a favourable outcome, or that responses were not as timely as desired, the evidence before me does not suggest a deliberately obstructive or 'predetermined' approach by the Council.
9. More pertinently, in respect of the main issues and relevant material considerations, including the question of whether the site constituted previously developed land and considerations of the proposed access, these are matters of planning judgement having regard to the particular circumstances of the case. There is nothing in evidence to suggest that the Council failed to properly consider any specific argument advanced by the appellant when determining the application, and the Council has provided evidence in support of its position at appeal.
10. As will be seen from my main decision, I have agreed with the Council's positions in respect of the main issues and relevant material considerations raised. Consequently, the Council has substantiated its case at appeal and its refusal of the application did not prevent or delay development which should reasonably have been permitted. Therefore, I do not consider the Council acted unreasonably in these respects.

Conclusion

11. For the reasons set out above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. Therefore, an award of costs is not justified, and no award is made.

K Savage

INSPECTOR