
Costs Decision

Site visit made on 17 February 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Costs application in relation to Appeal Ref: APP/D3505/W/22/3307090 Land to the rear of Brooke House, Old London Road, Copdock And Washbrook IP8 3JD

- 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 G Bridges for a full award of costs against Babergh District Council.
 - The appeal was against the refusal of Council to grant planning permission for 'Outline - Erection of 12 no. dwellings (5 no. affordable) (with access)'.
-

Decision

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

Reasons

2. The Planning Practice Guidance¹ (PPG) advises that costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application for costs is made on the basis that the Council has behaved unreasonably as the decision to refuse permission was not fully justified, did not take proper account of local and national policy or the benefits of the scheme, did not work proactively with the developer and was inconsistent. The Council contends that these points are all without substance.
4. The PPG² provides examples of the types of behaviour that can give rise to a substantive award against the Council. These include vague, generalised or inaccurate assertions about a proposal's impact, failure to produce evidence to substantiate each reason for refusal on appeal and not determining similar cases in a consistent manner.
5. The Council relied on their officer report to defend the appeal. This did set out the reasons for the decision in a clear manner which, while brief in places, did take account of the relevant factors. The interpretation of local and national policy was not irrational. A reasonable exercise of planning judgement was demonstrated in the conclusions reached.
6. The Council's first reason for refusal relates to the principle of the development. In such circumstances, it is difficult to see how it would be

¹ Appeals: Advice on planning appeals and the award costs

² Paragraph: 049 Reference ID: 16-049-20140306 Revision date: 06 03 2014

possible for the Council to work proactively with the developer to find a solution. I also note that the parties did continue to work to resolve the second reason for refusal and to complete a s106 agreement with respect to the proposed development. I therefore find the Council's behaviour was not unreasonable in this respect.

7. The Council's assessment of the appeal site's relationship to Copdock and Washbrook reaches a different conclusion to that in the previous decision on the adjacent site. However, with respect to this appeal, I consider that the Council did not exercise its judgement unreasonably. As a result, the appellant was not put to unnecessary expense.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

J Downs

INSPECTOR