



Costs Decision

Site visit made on 25 April 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2023

Costs application in relation to Appeal Ref: APP/F2605/W/22/3294630 Land at Taylors Rise, Lopham Road, East Harling, Norfolk

- 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 David Taylor for a partial award of costs against Breckland Council.
 - The appeal was against the refusal of planning permission for erection of detached dwellings with garages.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The application for a partial award of costs relates to the Council's reasons for refusal regarding matters of biodiversity and the provision of affordable housing and relies to a substantial extent on whether the Council communicated in a positive manner with the appellant and members of its planning committee during the planning application process.
4. The reasons for refusal are set out on the decision notice and are clear, precise, and relevant to the application. The decision notice clearly states the policies of the Breckland Local Plan that conflict with the proposal. The reasons have also been adequately substantiated in the delegated report.
5. The planning application was initially presented to the Council's Planning Committee in October 2021. However, errors were identified in the information presented to the committee, including the site's location relative to the settlement boundary and the omission of reasons for refusal relating to biodiversity and provision of affordable housing. The Council presented the proposal to the Planning Committee again in November 2021 for the purpose of correcting the errors.
6. The Council has submitted transcripts of the November 2021 Planning Committee meeting, and the appellant has supplied links to the video recording of the meeting. From this evidence, I note the Head of Development Management provides an explanation of the previous errors and explains the application of the Council's present affordable housing policy in the context of this site, and the change in policy from the former development plan. Since the

errors were corrected promptly and prior to issuing the Decision Notice in December 2021, I consider that the Council did not misapply its policies, including those for affordable housing, nor purposefully mislead its members. In any instance, I am not convinced that had the Council handled the application differently, that it would have led to a different outcome or decision.

7. The Council has supplied details of correspondence with the appellant over an extensive period prior to the determination of the application. From the evidence before me, it appears the Council engaged with the appellant in a reasonable manner prior to determination of the application.
8. In correspondence from to the appellant in January 2021, the Council expressed its intent to refuse the proposal on the basis of inadequate affordable housing provision. In July 2021, the Director of Planning and Building Control stated to the agent and appellant that the Council would not agree to the application of the 25% affordable housing rate across the whole site. The Housing and Enabling Officer's holding objection to the scheme is stated in the delegated reports dated October 2021 and November 2021.
9. Both the October 2021 and November 2021 versions of the delegated report set out representations from the Ecology and Biodiversity Consultant which indicate that Preliminary Ecological Appraisal is necessary to meet the requirements of the development plan. The Planning Officer concludes that in the absence of such evidence, the proposal cannot be considered to satisfy the requirements of the relevant policy.
10. The Council expressed its concerns with the proposal during the planning application stage, which ultimately informed its reasons for refusing the scheme, and the appellant was afforded sufficient opportunity to address the Council's concerns. Consequently, I do not consider that the Council's behaviour was unreasonable, nor that the appeal process was the only course of action available to the appellant.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

E Dade

INSPECTOR