



Costs Decision

Site visit made on 2 August 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 11 September 2023

Costs application in relation to Appeal Ref: APP/D0515/W/22/3310893 Land north of Rathbone, Atkinsons Lane, Elm, Wisbech PE14 0JR

- 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 Messrs A & S Clarke for a full award of costs against Fenland District Council.
 - The appeal was against the refusal of planning permission for 4 building plots for new-build development.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. This application is founded upon the applicant's contention that the Council acted contrary to the recommendation of its highway officer and was unreasonably swayed by public opinion and therefore refused the application without reasonable justification.
4. The applicant argues that this has led to the unnecessary preparation and submission of a written representations planning appeal by the applicant's consultant.
5. It is clear from the committee report that the highway officer did not object to the development on highway safety grounds. It is also clear from the committee report that the case officer's recommendation was based upon the principles of enabling sustainable forms of development, which was not a consideration for the highway officer. References to this are made within the executive summary and highway issue/access section of the committee report. In any event, it is legitimate for council members to make decisions which are contrary to the recommendation of their officers, including the highway officer.
6. Whilst I disagree with the Council's decision, the reason for refusal is clear and concise and based on planning merit, they also identified where they believe it conflicts with the development plan.
7. As a result, I cannot agree that the Council has acted unreasonably in this case. As such, the applicant did not incur unnecessary or wasted expense as a result of the Council's actions.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

J Hobbs

INSPECTOR