



Costs Decision

Site visit made on 19 July 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Costs application in relation to Appeal Ref: APP/W3520/W/21/3289746 The Leas, The Street, Stonham Aspal IP14 6DE

- 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 R Tydeman for a full award of costs against Mid Suffolk District Council.
 - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of a planning permission for the Outline Planning Application (Access to be considered) - Erection of up to 5 no. dwellings and construction of new access, following demolition of 1 no. existing dwelling.
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Decision

1. The application for an award of costs is partially allowed, in the terms set out below.

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 full award of costs has been made on substantive grounds that the decision to refuse planning permission has prevented and delayed development which should clearly be permitted and that the decision to refuse was inconsistent with the previous decision to permit the scheme.
4. The applicant considers it was unreasonable for the planning committee to ask the heritage team to reconsider their comments. I am mindful of the statutory duty imposed by s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the requirements of Section 16 of the National Planning Policy Framework. The officer report referred to the proposal as 'not being sufficiently harmful to the significance of the heritage asset'. Given this use of language, I consider it was not unreasonable that the Committee Members sought further advice.
5. It is clearly unfortunate that the heritage team arrived at a different conclusion at a late stage in the application process. However, the comments demonstrate a legitimate exercise of planning judgement on the single issue of heritage. It was also a legitimate exercise of planning judgement for the officer recommendation to be amended as a result of those comments. I therefore find this does not amount to unreasonable behaviour.

6. It is also claimed that the Council has behaved unreasonably by introducing the second reason for refusal when it was not raised as an issue in the previously refused application, the officer report or the reasons for deferring the application at the November meeting.
7. While I do not have full details of the refused application before me, it is clear that the scale and appearance of the proposed dwellings was amended following that decision. The Committee were required to assess the second reserved matters application on its own merits. They were also under no obligation to identify all issues at the November meeting, nor to follow the advice of their officers.
8. However, the Council's evidence does not provide any meaningful explanation of the nature of the harm that would arise as a result of the density, scale and design to the countryside character of the site and its surroundings. There is also no acknowledgement that the principle of residential development on the site had been accepted by the grant of the outline permission. I therefore find that the Council's second reason for refusal to be a vague and generalised assertion about the proposal's impact. It is not supported by any objective analysis and therefore constitutes unreasonable behaviour.
9. The applicant also seeks costs on the basis that the Council failed to communicate during the application process with regard to the updated comments from the heritage team and when the application was being returned to the planning committee. However, this is a procedural matter related to the determination of the planning application. The PPG is clear¹ that 'costs can only be awarded in relation to unnecessary or wasted expense at the appeal'. That was not the case in relation to this point.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mid Suffolk District Council shall pay to Mr R Tydeman, the costs of the appeal proceedings described in the heading of this decision[limited to those costs incurred in respect of the second reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Mid Suffolk District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

J Downs

INSPECTOR

¹ Appeals Paragraph: 033 Reference ID: 16-033-20140306 Revision date: 06 03 2014