



Costs Decision

Site visit made on 6 September 2023

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2023

Costs application in relation to Appeal Ref: APP/K2420/W/23/3317284 Land at Bagworth Road, Nailstone, Nuneaton, CV13 0QJ

- 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 J Dawson for a full award of costs against Hinckley and Bosworth Borough Council.
 - The appeal was against the refusal of planning permission for "Outline application for up to 9 dwellings, all matters reserved."
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably, in either a procedural or substantive way, and has caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant is seeking a full award of costs on the basis that the Council has failed to produce evidence to substantiate the reason for refusal, has relied on vague and generalised assertions and failed to carry out an adequate planning balance exercise, having regard to paragraph 11d of the National Planning Policy Framework (the Framework). They also state that in failing to submit a Statement of Case in a timely manner, the Council has caused unnecessary expense and delay to the applicant.
4. I have noted the recommendation of the Council's Officers to Council Members. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
5. The Council's statement of case fully substantiates the reason for refusal and includes detailed consideration of the provisions of paragraph 11d of the Framework. It will be seen from my decision that I agree that the proposal would result in an unacceptable impact upon the character and appearance of the countryside and that this harm is not outweighed by any material considerations. I therefore have no basis upon which to conclude that the Council has behaved unreasonably by failing to substantiate the reason for refusal.

6. The Council failed to provide their Statement of Case in accordance with the timetable set out at the start of the appeal with the Statement being received several weeks after it was due. The Council explained that this was due to internal administrative errors. The applicant was given the opportunity to comment and therefore was not prejudiced by my taking the statement into account. In failing to comply with the timetable the Council has acted unreasonably, however there is no substantive evidence before me that this delay has resulted in additional expense to the applicant.
7. Therefore, whilst I find that unreasonable behaviour has occurred, it has not resulted in unnecessary or wasted expense as described in the PPG. Therefore, the application for an award of costs must fail.

E Pickernell

INSPECTOR