



Costs Decision

Site visit made on 26 September 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th December 2023

Costs application in relation to Appeal Ref: APP/V2635/W/23/3320188 16 Rowan Close, Watlington, Norfolk PE33 0UG

- 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 Simon Wadsley against the decision of King's Lynn and West Norfolk Borough Council.
- The appeal was against the refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted. The application sought planning permission for substitution of house types for plots 7 & 8 including change of materials and positioning at 7 & 8 Rowan Close, Fen Road, Watlington, Norfolk without complying with conditions 2, 5 and 8 attached to planning permission Ref 20/01165/F, dated 23 December 2020.

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 applicant claims, in summary, that the Council acted unreasonably in not entering into positive and proactive communication with the applicant during the consideration of the application to remove conditions imposed on a planning permission, and that the Council acted unreasonably in not being willing to adopt the footpath.
4. The Council have rebutted the claim advising that the applicant did not enter into formal pre-application advice, and that the applicant was fully aware of the Council's view on the conditions from previous discussions.
5. From the evidence before me the applicant was aware of the Council's views on the need for the footpath as a result of the previous appeal. The applicant chose not to seek any pre-application advice before submitting the current application to remove the conditions relating to its provision and maintenance. The Council assessed the application on its merits taking account of the information submitted, the development plan, the Framework the Swindon Borough Council case¹. There is no legal requirement for the Council to

¹ DB Symmetry Ltd v Swindon Borough Council and another [2020] EWCA Civ 1331

negotiate on a live planning application and the advice at paragraph 38 of the Framework, for Council's to work proactively with applicants, can be followed through pre-application discussions.

6. Moreover, the Council justified its decision to refuse the application to remove the conditions during the appeal process and provided additional information that I requested. I, therefore, have no substantive evidence that the Council has acted unreasonably in this case.
7. However, faced with the refusal, the appellant chose to exercise his right to appeal the decision. Whilst the applicant has incurred costs in submitting the appeal and has not achieved the outcome they had hoped for, it will be seen from the appeal decision that I concurred with the Council's assessment that there was no justification for removing the conditions.

Conclusion

8. For the above reasons, I find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

K Townend

INSPECTOR