



Costs Decision

Site visit made on 21 November 2023

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2024

Costs application in relation to Appeal Ref: APP/V2635/W/23/3317934 18 Tuesday Market Place, King's Lynn PE30 1JW

- The application is made under sections 78, 322 and Schedule 6 of the Town and Country Planning Act 1990, and section 250(5) of the Local Government Act 1972.
 - The application is made by Gain SPVKL Ltd for a full award of costs against King's Lynn and West Norfolk Borough Council.
 - The appeal was against the refusal of planning permission for the change of use of part of the ground floor to form 2 one-bedroom flats (application ref 22/00031/F).
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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 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. I have concurred with the Council's findings in this case, considering its decision and the presentation of its position to be reasonable.
4. The applicant contends that a grant of planning permission could have been secured had it been given further chance to comment. I am aware though that the application had been with the Council for 11 months and valid for 9, over which time there appears to have been on-going negotiation between the parties and a consequent evolution of the scheme. There had therefore been opportunity for a suitable outcome to be reached.
5. Moreover, in making its decision the Council was well aware of the comments of the Emergency Planning Officer as they formed part of the report, and so it is reasonable to assume the Council's position would not have changed had those comments been '*pointed out*'. Given this I have no basis to find that a further delay in the determination of the case would have meant a satisfactory solution would have been reached.
6. It was not inappropriate for the Council to notify the Environment Agency of the appeal, as it had been a consultee at application stage. While the applicant considered the Environment Agency raised no objections to its scheme, that is not apparent from its representations to the appeal. As such, even if the Environment Agency had been given what the applicant considered to be a meaningful opportunity to comment on the last amendments to the application, again I am not satisfied the outcome would have been any different. Although I recognise that from the report it is unclear as to the state of the application when the consultees made their comments, when the report is taken as a

whole I am not satisfied that any decision-makers would have been misled by its overall content.

Conclusions

7. Therefore, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not warranted.

JP Sargent

INSPECTOR