



Costs Decision

Hearing held on 30 January 2024

Site visits made on 30 January and 1 February 2024

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Costs application in relation to Appeal Ref: APP/W2845/W/23/3323851 Land North of Whiston Road (between numbers 2 and Manchester House), Cogenhoe, Northamptonshire, NN7 1NL

- 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 West Northamptonshire Council for a full award of costs against Mr Carl Merrick.
 - The appeal was against the refusal planning permission for a hybrid planning application: outline planning permission sought for up to two self-custom build dwellings, with access for consideration. Full planning permission sought for restoration works to existing brick lean-to structure.
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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 (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. In this case, the appellant believed that the site represented a reuse of previously developed land. The Council disagreed with this assessment given that it considered that the remains of the permanent structure and fixed surfaces had blended into the landscape.
4. However, this is a matter that requires a degree of judgement. In this case, the appellant drew my attention to various physical elements on the site that were visible. Therefore, the fact that evidence was submitted by the appellant to illustrate their analysis means that I cannot find this approach to be unreasonable.
5. I am conscious of a previous appeal decision relating to the development of this site. This was the subject of an unsuccessful High Court Challenge. In the preceding appeal, the Inspector concluded that Whiston Road was poorly lit. It is apparent that this conclusion was reached based upon the site visit undertaken by the Inspector.
6. Although the current scheme is for two self-build homes like the preceding appeal, there are significant differences in the evidence before me. This includes new documents such as a technical assessment of the level of street lighting; an assessment of walking distances between the site and services in

Cogenhoe; and details of bus services. It was established at the hearing that this evidence was not before the previous Inspector.

7. These documents, which must be considered as part of the planning process, amount to a different proposal to the previous scheme. In result, there was a possibility that a different outcome would be reached. This means that by submitting the planning application and appeal, the appellant was not acting unreasonably.
8. Although the appellant believed that their scheme complied with the requirements of the Development Plan, this was based upon the site representing the reuse of buildings and case law. Whilst I have disagreed with the appellant in respect of these points, they were properly justified. Moreover, evidence was submitted as part of the appeal documentation and at the hearing which substantiated these viewpoints.
9. It is a requirement that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. Therefore, at the hearing, it was discussed whether such considerations meant that the proposed development should gain planning permission. To this extent, the appellant submitted details regarding the need for self-build housing in the Council's area. Considering the submission of analysis in respect of these matters, the appellant has not acted unreasonably for their views were fully evidenced.
10. The Council confirmed, at the hearing, that they were withdrawing the claim that the appellant had not participated in the drawing up of the legal agreement. I have no reason to disagree with this revised view.
11. In result, I do not believe that unreasonable behaviour as defined by the PPG has been demonstrated. Accordingly, an award of costs is not necessary.

Conclusion

12. For the preceding reasons, the application for an award of costs is refused.

Benjamin Clarke

INSPECTOR