



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 Mr Carl Merrick for a full award of costs against West Northamptonshire Council.
 - 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 instance, the Council suggested that the site did not meet the definition of previously developed land. This was because it was considered that the built functions had assimilated into the landscape. This is, in essence, a matter of judgement. Whilst I have disagreed with the views reached by the Council in this regard, the Council outlined the reasons for their conclusions. Therefore, I am not unable to find that this is evidence of unreasonable behaviour.
4. The appellant submitted to the Council a legal opinion suggesting the only decisions that should be calculated are those where the permission was granted subject to a legal agreement. However, this legal opinion was formulated in respect of a different appeal and, more pertinently, does not relate to an approach mandated in the PPG. Therefore, even though further analysis regarding the number of planning permissions is needed, the fact that the Council took a wider view of the calculation of self-build planning permissions than that suggested by the appellant, is not evidence of unreasonable behaviour.
5. The appeal site is not located inside the boundaries of a settlement. The Council have suggested that this breached planning policies that sought to direct developments towards settlements, or areas immediately adjoining the

boundaries of settlements. The appellant referred to caselaw, which suggested that the definition of adjoining a settlement has a broader meaning.

6. The Council have not, in their submissions, explicitly referred to this caselaw. However, the Council have considered whether the occupiers of the development would have suitable access to the services and facilities in Cogenhoe and the physical separation between the site and the settlement, which means that concerns regarding the suitability of the development's location were fully explained. Therefore, not explicitly referring to the caselaw did not result in the appellant incurring wasted or unnecessary expense.
7. In addition, the Council provided information regarding the topography of the area and suggested that this might deter occupiers of the development from travelling on foot. Therefore, the Council's concerns regarding the location of the development were properly explained.
8. The appellant provided an assessment of the level of street lighting. It is apparent that the Council had regard to the matter of street lighting in their considerations. This can be seen through references to a previous planning appeal decision. Although the Council did not provide their own technical assessment of the levels of lighting, this was not the only matter in dispute. Therefore, even if such a counter assessment been undertaken, it is doubtful that this would have avoided the appeal proceedings. Furthermore, the appellant did not submit any further technical analysis as part of their appeal submissions beyond that submitted with the application for planning permission.
9. I understand that information regarding the number of planning permissions granted for self-build housing was not before the Council's Planning Committee when a decision was made. However, it was clear that the Committee would have been aware that the proposal was for self-build housing. Given that analysis was provided in respect of whether the proposal complied with the Development Plan, I do not believe that this has resulted in wasted or unnecessary expenses being incurred by the appellant.
10. Therefore, it has not been demonstrated that the Council acted unreasonably in this regard, and that this resulted in wasted, or unnecessary expense being occurred by the appellant.
11. I therefore find that unreasonable behaviour, as defined by the PPG, has not 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