



Costs Decision

Hearing held on 27 February 2024

Site visit made on 27 February 2024

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2024

Costs application in relation to Appeal Ref: APP/W2845/W/23/3331742 Land East of Northampton Road, Roade, Northamptonshire

- 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 Snowdon Homes Ltd for a full award of costs against West Northamptonshire Council.
 - The appeal was against the refusal of planning permission for up to 24 First Homes.
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Decision

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

Case for the applicant

2. The applicant submitted a claim for an award of costs when the appeal was lodged and has submitted a final response after the Hearing. The applicant's case stems primarily from the decision of the Planning Committee to go against the professional advice of its Planning Officer.
3. In brief, the applicant cites unreasonable behaviour of members of the Planning Committee, claiming lack of an open mind, pre-determination, and failure to give due regard and appropriate weight to a series of planning considerations. If they had done, the outcome and decision would have been different and not caused the applicant to lodge an appeal and incur additional costs as a result. The applicant has submitted a transcript of the committee meeting.
4. Furthermore, in helping members of the Planning Committee with wording for a possible refusal reason before proceedings had fully played out, the Planning Officer failed to discharge their professional role. Officers also failed to advise members of the risk of costs.

Case for the Council

5. The Council refutes the claims. The applicant has failed to understand and appreciate the roles of the Planning Officer at the Planning Committee. Whilst they prepare and present the report to the Planning Committee, they also provide guidance to members if required, such as answering questions put to them or addressing issues raised by a committee member. Similarly the Council's other officers from the legal and democratic services department also provide guidance as required on matters of law or committee procedures. The applicant was not forced into making an appeal. Instead they made a commercial decision to lodge an appeal aware that costs would be incurred as a result. As the decision was a member overturn, the Council has also incurred

costs in defending the Council's position at appeal but has not made an application for costs.

Reasons

6. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Both tests need to be satisfied before an award of costs can be made.
7. The PPG gives examples of the types of behaviour that could give rise to a substantive or procedural award of costs against a local planning authority. They are not exhaustive but include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
8. The planning application was considered at the Planning Committee on 3 August 2023 where members resolved to refuse planning permission contrary to the Planning Officer's recommendation. This was based on a thorough committee report and officer advice. Members are fully entitled to disregard or disagree with the advice of their professional officers. This is not in itself unreasonable behaviour, but the Council must be able to substantiate its reasons for refusal.
9. The applicant ultimately decides whether to appeal or not and will make some assessment of the likely costs of doing so. The resubmission of another planning application instead of appealing would not have overcome the substantive fact that the application was refused primarily on matters of policy principle, not for example on the design of the dwellings. Hence, I concur with the applicant that they had no option to appeal the Council's decision in this instance.
10. At the Hearing the Council had reconsidered its position with regard to some of the development plan policies and consequently some agreement had been reached, however it maintained its ultimate position that the proposal was contrary to the policy in that the proposal had not been justified by a locally identified housing need. Although I have reached a different conclusion to the Council on this matter, I am satisfied that it presented sufficient evidence and drew conclusions on a valid policy basis.
11. Removing reference to Policy H3 would not have overcome the issues, as there was still the encroachment into the countryside that would fail to preserve the character and appearance of the area. On this matter I found that the Council was correct in its decision which was made with reference to the development plan and provided sufficient evidence for me to make my decision. In addition, as the site was within the setting of the Roade Conservation Area, I had a duty to consider the effect on this heritage asset, which I did at the Hearing and in my decision.
12. The Council employed the services of an external planning consultant to defend its position at the Hearing, which preserves the professional integrity of the

individual Planning Officer who wrote the report to the Planning Committee – this is a very different situation to the Planning Officer helping members navigate matters at the committee meeting.

13. Given my findings I therefore conclude that development has not been prevented or delayed which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Overall, therefore, I find the Council has not acted unreasonably.
14. As I have found the Council has not acted unreasonably, I need not concern myself as to whether wasted expenditure has occurred, as both tests need to be satisfied before an award of costs can be made.
15. Whilst the applicant refers to a costs decision at Long Buckby that went in their favour, all decisions fall to be determined on the particular facts of the case and the evidence before the Inspector at the time. In any event I must determine the matters in the case on the facts before me.
16. The applicant refers to issues regarding the way the planning application was determined by the Council. This is a matter between the two parties. The Planning Committee decided that permission should be refused and that was the Council's formal decision. If the applicant is perhaps alleging maladministration by the Council, then the appropriate channel would be to take the matter up with the Council to resolve this matter.

Conclusion

17. I find that unreasonable behaviour, resulting in unnecessary or wasted expense at appeal as described in the PPG, has not been demonstrated. An award for costs is therefore not justified.

K Stephens
INSPECTOR