



Costs Decision

Site visit made on 30 April 2024

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th May 2024

Costs application in relation to Appeal Ref: APP/Y2003/W/23/3330973 100 High Street, Epworth, DONCASTER, DN9 1JS

- 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 North Lincolnshire Council for a full award of costs against Mr and Mrs P Evans.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of a replacement dwelling and one new dwelling.
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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 light of the above, whilst it may be considered that failing to address two of the five reasons for refusal could be unreasonable behaviour, given the response of the applicant to those particular matters relied largely on their original assessment of the proposal, I am not convinced that it was here.
4. To my mind, in their case and evidence taken as a whole the appellant fully supported their opinion that the development should be granted planning permission, and made their case when they submitted their appeal, including the submission of evidence to support that case.
5. Turning to the amended plans, I note the applicants' frustration that the appellant sought to have them considered in their appeal. As they note, the Procedural Guide: Planning appeals – England is clear that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage.
6. Given that, it was open to the applicant not to address those later amended plans in the appeal, giving their reasons for not doing so. Similarly, it would have been entirely consistent with that position for the Conservation Officer not to have offered comment on those amendments, although that may have been done in connection with post/pre-application discussions regardless of the submission of the appeal.

7. Whilst I did not accept those amended plans in my main decision, I do not consider it was entirely unreasonable, or indeed, given the evidence before me in the appeal, unusual that they should have been submitted in the hope that they may be accepted.
8. I also do not consider that the submission of evidence, in the form of the Structural Appraisal Report to address some of the reasons for refusal was unreasonable. Indeed, I find the case of the applicant somewhat conflicting in this regard, as it cannot be unreasonable to offer no evidence on certain parts of the decision, but unreasonable to offer evidence to address other parts.
9. The exercise, by the applicant of their right to appeal, which is itself a part of the development management process, was plainly, on the face of my main decision, not unreasonable as the decision turned on planning judgement. That right was therefore exercised in what I consider to be a reasonable manner.
10. Whilst there are limited circumstances set out in the PPG in which the making of an appeal could be considered unreasonable, they clearly do not apply here.
11. I do not therefore consider that any unreasonable behaviour, substantive or procedural has taken place.
12. However, even if the appellant had behaved unreasonably, I would then need to be satisfied that such unreasonable behaviour directly caused the applicant to have incurred unnecessary or wasted expense in the appeal process.
13. I also note that in defending the grounds of appeal on which no new evidence was advanced by the appellant, the applicant was simply able to rely on their original assessment of the proposal and offered a standard condition. I do not consider that this is evidence of unnecessary or wasted expense.

Conclusions

14. I therefore find that no unreasonable behaviour has occurred, and as a result, no unnecessary or wasted expense has occurred. An award of costs is not therefore warranted, and the application should be refused.

S Dean

INSPECTOR