
Costs Decision

Hearing Held on 23 & 24 April 2024

Site visit made on 24 April 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2024

Costs application in relation to Appeal Refs: APP/M2325/W/23/3334188 & APP/M2325/W/23/3334190

The Garden Place, Cropper Road, Westby with Plumpton FY4 5LB

- 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 Andrew Garnett (Breck Homes and Eden Land & Development) and Mike Bowman (Eden Land & Development) for a full award of costs against Fylde Borough Council.
 - The appeals were against the refusal of the Council to grant planning permission for the erection of 62 affordable dwellings with vehicular access from Cropper Road, associated internal estate road, flood attenuation area and pedestrian/cycle links and the development of Neighbourhood Centre comprising single storey retail building (use classes E a) or E b) with area reserved for future community use, access from Cropper Road, car park, servicing area and landscaping.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The evidence indicates that the claim for costs is submitted due to the consequences of the dysfunctional approach of the Council to the determination of the planning applications at the sites, over a sustained period since August 2021 and its response to the present appeals.
4. Much of the claim is made in relation to handling of the planning applications which the appeals referenced above relate to, and reference is made to two previous applications of a similar nature, which remain undetermined by the Council.
5. The appeals to which the claim for costs relate were made under section 78 of the Town and Country Planning Act 1990 against failures to give notice within the prescribed period of decisions on those applications for planning permission. It therefore needs to be borne in mind that the Council have not determined the applications nor issued formal refusal reasons.

6. The Council has provided limited reasoning for not reaching a decision within the relevant time limit but have alluded to high workloads and staffing constraints.
7. At appeal, the Council did offer thorough explanation as to why permission would not have been granted for both of the proposals had the applications been determined within the relevant period by offering putative reasons for refusal and providing evidence claimed in justification for those reasons.
8. In line with PPG¹ a Local Planning Authority's handling of the planning application prior to the appeal could lead to an award of costs if an appeal in such cases is allowed. However, both of the appeals which are the subject of this claim for costs have been dismissed.
9. It is therefore likely to have been the case that even had the Council determined the applications, they would likely have refused them, and the claimant would have likely had to engage with the appeal process on similar grounds as they have had to do. There are therefore no grounds on which an award of costs is justified with regard to the handling of the planning applications by the Council.
10. Even if it were the case that the Council failed to advise the appellant or myself of correspondence from the Highways Authority, it is not clear to me how that or any other behaviour of the Council has directly caused unnecessary or wasted expense in the appeal process. Further, with regard to concerns over the requirements of the parking SPD, the evidence indicates that the parking SPD was published prior to the submission of the appeal and therefore is a matter outside of the appeal process.

Conclusion

11. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

T Burnham

INSPECTOR

¹ Paragraph: 048 Reference ID: 16-048-20140306.