



Costs Decision

Site visit made on 16 April 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2024

Costs application in relation to Appeal Ref: APP/E2530/W/23/3330287 Dove House, Barkston Road, Marston NG32 2HN

- 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 J Thorold for a full award of costs against South Kesteven District Council.
 - The appeal was against the refusal of planning permission for erection of a dwelling (re-submission of withdrawn application ref: S21/2165).
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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. Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include preventing or delaying development which should clearly be permitted; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; refusing planning permission on a planning ground capable of being dealt with by conditions; acting contrary to, or not following, well-established case law; not determining similar cases in a consistent manner; and refusing to enter into pre-application discussions, or to provide reasonably requested information.
4. The applicant states that the appeal was unnecessary as the Council could have departed from the advice provided by The Gardens Trust (GT), which the applicant considers to be fundamentally flawed.
5. In my decision I have found that the area has a spacious and organic layout of buildings in an edge of settlement location with views across open countryside, contributing a rural, verdant character. This is consistent with the GT's description of the area having a "very rural setting". Therefore, whilst the appellant may disagree with the GT's advice, it reflects the professional judgement of the GT.
6. The applicant asserts the GT fundamentally miscategorised the appeal site. However, the GT's advice refers to the siting of the proposed dwelling in the former orchard of Dove House and its proximity to neighbouring White Gates, and it is therefore evident that the GT accurately identified the site's location.

7. Historic England and the Council's conservation officer did not object to the proposal, and the submitted evidence did not indicate the proposed development would affect other listed buildings in the area, or their settings. However, the registered park and garden differs in type from other heritage assets in the locality. Therefore, it is logical to conclude that the development could affect the registered park and garden without impact upon other types of heritage asset. Moreover, professional judgement may differ between respondents.
8. The GT is the national statutory consultee for proposals which may affect registered parks and gardens. Due to the site's proximity to a registered park and garden, the GT's advice is of significant importance in determining the appeal proposal. As set out above, I am satisfied the GT's advice was not fundamentally flawed.
9. The reasoning in the Council's delegated report makes clear that the planning officer also had regard to the appellant's Heritage Impact Assessment in determining the proposal. There were no cogent and compelling reasons for the Council to depart from the advice of the statutory consultee, and therefore the behaviour of the Council was not irrational.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

E Dade

INSPECTOR