

Costs Decision

Site visit made on 8 May 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th June 2024

Costs application in relation to Appeal Ref: APP/H0520/W/23/3334460 Top Farm, Top Lane, Abbotsley, Cambridgeshire PE19 6UH

- 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 and Mrs J Dell for a full award of costs against Huntingdonshire District Council.
 - The appeal was against the refusal of planning permission for construction of a detached dwelling with attached garage.
-

Decision

1. The application for a full 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. The applicant's claim is that the Council's reason for refusal was based on unsubstantiated and contradictory statements in its officer report, which failed to identify any harmful impacts from the proposed development. It is also argued that the Council failed to have regard to a relevant case precedent put to it in evidence and that it failed to engage meaningfully with the applicant during the application process.
4. The Council responds that due to high workloads, its officers are unable to discuss cases during the application, with applicants referred to the pre-application service. This dovetails with a 'no amendment' policy instigated in 2022. In respect of the substantive claim, the Council states that it set out its objections in its officer report, noting the location of the proposal was in conflict with Policy LP2 of the development plan and not in accordance with other specific opportunities for development within the plan.
5. In terms of the procedural matter, costs may only be awarded in respect of the appeal process, though actions preceding the appeal may be taken into consideration. Here, the planning officer provided a detailed reply to the applicant's agent on 10 March 2023 setting out the Council's concerns following the end of the consultation period. I note the applicant's subsequent attempts to engage in dialogue and offer further evidence in support of the application were not entertained by the Council.
6. The National Planning Policy Framework sets out that local planning authorities should approach decisions in a positive and creative way. As such, I can appreciate the applicant's frustration with the Council's unwillingness to enter

into discussion; however, the evidence indicates that the Council's approach to discussion and amendments was published on its website. Such an approach is increasingly necessary to enable some local planning authorities to balance ever growing workloads with available staff resources and should not have been a surprise to the applicant given it was publicised and restated in the March correspondence.

7. In addition, whilst negotiation can resolve some concerns, such as with design elements, it is less likely to be effective where the concern relates to the principle of development, and attempting to do so in such circumstances can incur further unnecessary costs for all sides. Moreover, whilst the decision was not issued until 22 June 2023, the applicant was not in the dark as to the Council's views until that time, and could have taken steps upon receipt of the comments in March to progress matters, including appealing against non-determination once the statutory determination period expired.
8. On the evidence before me, I do not find that the Council's handling of the application was unreasonable in the context of the appeal or that the Council has otherwise failed to adhere to the procedural aspects at the appeal stage.
9. In terms of the substantive claim, the main issue involved consideration of the proposal in terms of whether it fell within one or more of a number of development plan definitions relating to 'built-up area.' The Council's reference to *'undeveloped land that affords important views from a public vantage point to or from a Listed Building or Conservation Area connecting the building or area to its countryside setting'* was somewhat superfluous as I inferred from the evidence that its principal concern was with the site being a *'large curtilage with grounds stretching away from the rest of the built up area.'* Ultimately, the evidence required me to make my own judgement as to which definition, including that offered by the applicant, most closely reflected the site circumstances. Whilst I have not agreed with the Council in my main decision, it provided sufficient explanation to support its reason for refusal, including reference to where it identified conflict with relevant development plan policies. Although the Council's officer report and case at appeal were brief, I do not consider that it has acted unreasonably in these respects.
10. The precedent case cited by the applicant was first raised in correspondence during the application process. The Council did not directly address this case in its officer report and indicated it had no comments on it at appeal stage, citing the principle of determining each application on its own merits. It will be seen from my decision that I do not regard this other decision as a decisive consideration. Therefore, I am satisfied that the Council did not fail to have regard to a significant material consideration in reaching its decision.

Conclusion

11. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not justified.

K. Savage

INSPECTOR