



Costs Decision

Site visit made on 4 June 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2024

Costs application in relation to Appeal Ref: APP/C1435/W/23/3333025 Criss Cross, Wellbrook, Mayfield, East Sussex, TN20 6EA

- 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 Brookworth Homes Limited for a partial award of costs against Wealden District Council.
 - The appeal was against a refusal to grant planning permission for the demolition of existing residential property and the erection of 6 dwellings and associated works.
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Decision

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

Reasons

2. The National Planning Practice Guidance (NPPG) 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. Unreasonable behaviour can be procedural, or it can relate to the substance of the matters under consideration as part of the appeal.
3. Paragraph 049¹ of the NPPG highlights the examples of unreasonable behaviour by Local Planning Authorities where costs can be awarded. The applicant has submitted that the Council has acted unreasonably in that it has failed to produce evidence and substantiate its reasons for refusal, making vague, generalised, or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis.
4. I note the recommendation of the Council's officers was to approve the scheme, which the Planning Committee chose not to accept. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In reaching their alternative view the Council had extensive information before them and engaged in widespread debate on the matters during the consideration of the submission at the committee meeting.
5. The reasons for refusal are clearly set out in the decision notice, and subsequent Council Statement of Case as part of the appeal. These are complete, precise, specific and relevant to the application. The Council clearly referenced the relevant policies of the Local Plan and the National Planning Policy Framework which formed the Councils development plan at the time of its decision. I find in reaching a decision the Council did consider the proposal

¹ Appeals Paragraph: 049 Reference ID: 16-049-20140306

against the relevant development plan policies and in respect to all appropriate matters reached a conclusion that was objective and reasoned in its analysis. As such I am satisfied that the Council has shown that it was able to substantiate their reasons for refusal. Indeed, these formed the main issues in respect to my appeal decision, despite me reaching an alternative conclusion to the Council.

6. The applicants state that they were subject to wasted expense in preparing rebuttal statements in relation to trees and ancient woodland; landscape and visual matters; and ecology and nature conservation issues, and it is acknowledged that the Council has put forward little information to counter the findings of these additional statements. However, given that the Council's reasons for refusal related specifically to the matters rebutted in these statements, I find that they would have still needed to be assessed at the appeal stage. Without the additional information submitted I may not have been able to reach the same conclusion. In this regard, I do not find that the production of the additional reports was an unnecessary step in the appeal process nor that it caused wasted expense.
7. Whilst I have reached a different view to the Council on these matters, this matter is one of judgement for the decision maker. It follows that I am satisfied that the Council advanced a case, in the form of the Statement of Case, the minutes of the meeting and decision notice, that in its opinion, indicated that the proposal was contrary to the development plan and the National Planning Policy Framework. Therefore, I cannot conclude that the Council had behaved unreasonably.

Conclusion

8. As parties in planning appeals and other planning proceedings normally meet their own expenses, I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the NPPG, has not been demonstrated and that no award of costs is justified.

Robert Naylor

INSPECTOR