



Costs Decision

Site visit made on 18 November 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 03 December 2024

Costs application in relation to Appeal Ref: APP/W3520/W/24/3346126 Land at All Saints Road, Creeting St Mary, Suffolk IP6 8PN

- 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 Chris Broom for a full award of costs against Mid Suffolk District Council.
 - The appeal was against the refusal of the Council to grant planning permission for phased development for the erection of up to five two-storey detached self-build residential dwellings, including individual culverted access from All Saints Road and hardstanding.
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Decision

1. The application for an award of costs is allowed in part in the terms set out below.

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. The PPG sets out examples of unreasonable behaviour, including the failure to produce evidence to substantiate each reason for refusal on appeal.
3. In respect of substantive matters raised by the applicant, these relate to the Council's first reason for refusal and the Council's assertion that the supply of self-build/custom build (SBCB) is met across the district and as a result it does not weigh in favour of the development.
4. The Officer's Report and Recommendation (ORR) identifies that the provision of SBCB is a significant material consideration but goes on to state that the SBCB duty is being met, providing an extract from the Inspector's report from the local plan examination as the basis for this position.
5. The applicant referred me to an appeal decision at Norton, determined in June 2023, where the Inspector found that the Council had not demonstrated that it was meeting its SBCB duty. A significant deficit of 133 units was identified in that case.
6. In its statement, the Council contend that the Norton appeal decision was prior to the adoption of the Babergh and Mid Suffolk Joint Local Plan – Part 1 (JLP1) in November 2023 and therefore did not represent an up to date position.

7. However, the applicant provided a summary of the SBCB permissions that had been provided to them under a Freedom of Information Act request (FOI) in January 2024, that postdates both the appeal decision at Norton and the adoption of the JLP1. The Council has confirmed it is reviewing its data in relation to SBCB provision but no update was provided at the final comments stage of the appeal. The Council did not dispute the contents of the FOI information provided by the applicant.
8. I therefore found in my appeal decision that an up to date position in terms of the supply of SBCB permissions has not been clearly evidenced or substantiated by the Council. I therefore accept that the nature of the SBCB provision as a benefit that weighed in favour of the scheme was omitted from the Council's overall balancing.
9. However, the Council's first reason for refusal was not purely related to SBCB provision. It also set out that the proposal was contrary to Policies SP03 and LP01 of the JLP1 which set out the spatial strategy for the area and the circumstances where developments may be supported outside of settlement boundaries. The Council clearly explained its reasoning in the ORR why it considered the proposal to be contrary to these policies. I have also found in my decision that the proposal conflicts with these policies. The Council also refused the application due to issues around character and appearance which are subject to planning judgement. It is not necessarily the case therefore, that the appeal would have been avoided, even if a clearer position on the SBCB provision in the district was provided by the Council.
10. Therefore, I do not consider that the Council has prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. However, I find that the applicant has been subjected to wasted expense in the appeal process, in terms of them having to gather and analyse information about the Council's SBCB supply, in order to identify a clear position on whether this is being met or not.
11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the gathering and analysis of SBCB provision information and a partial award of costs is therefore warranted.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mid Suffolk District Council shall pay to Mr Chris Broom, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in the gathering and analysis of SBCB information, with such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Mid Suffolk District Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

G Dring

INSPECTOR