



Costs Decision

Site visit made on 18 November 2024

by D R McCreery MA BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2024

Costs applications in relation to Appeal Ref: APP/U2615/W/24/3344907 Land North of Filby Road, Stokesby, NR29 3ES

- 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 applications are made by:
 - Application A - Mrs Paula Skippings for an award of costs against Great Yarmouth Borough Council, and
 - Application B - Great Yarmouth Borough Council for an award of costs against Mrs Paula Skippings.
 - The appeal was against the refusal of Permission in Principle for the erection of up to 4 dwellings (including one single storey bungalow) and provision of informal amenity green space.
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Decisions

1. Application A - The application for an award of costs is refused.
2. Application B - The application for an award of costs is refused.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, Paragraph 030 of the 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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural (i.e. relating to the process) or substantive (i.e. relating to the issues arising from the merits of the appeal), with non-exhaustive examples of each set out in the PPG¹.

Application A

4. The Council's reason for refusal number 4 refers to a failure to address the public open space requirements of the development, whether by on-site provision or financial contribution. The officer report indicates that, given the size of the site, open space could not feasibly be achieved on site and therefore a financial contribution would be required. The basis for this statement is not well explained, but it creates a strong indication that the Council had assessed the site's capacity for on-site provision, found it to be wanting, and were of the mind that a financial contribution would be needed.

¹ Paragraphs 047,049,052 and 053

5. In response to the costs claim, the Council acknowledges that the PPG expects planning obligations to only be secured at the Technical Details Consent (TDC) stage. No such acknowledgement is apparent in the officer's report and, instead, the matter generated a reason for refusal. Taken together, the Council's officer report and the reason for refusal would lead a reasonable reader to conclude a planning obligation was the only mechanism available for allaying the Council's concerns.
6. On the balance of probabilities the Council refused PiP on a planning ground capable of being dealt with at the TDC stage. This amounts to unreasonable behaviour.
7. The Applicant has not provided a great deal of detail on the wasted expense incurred, beyond having to appeal the point. That appears to amount to little more of substance than a short statement offering to make a financial contribution at the TDC stage. On the balance of probabilities and the case made, I am not persuaded that wasted expense has been demonstrated.

Application B

8. The Applicant made a number of arguments in support of their case, including relating to the provision of a bungalow and biodiversity net gain. These arguments go to the merits of the case and are addressed in my appeal decision. Notwithstanding the respective merits, and the Council's view on them, the Applicant is entitled to have them tested at appeal. This includes having any weight attributed to purported benefits, taking account of how/whether the benefit could be secured.
9. On the balance of probabilities, unreasonable behaviour is not demonstrated.

Conclusions

10. For both Applications, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

D R McCreery

INSPECTOR