
Costs Decision

Site visit made on 2 December 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2024

Costs application in relation to Appeal Ref: APP/X1925/W/24/3342621 64 Pondcroft Road, Knebworth, Hertfordshire, SG3 6DE

- 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 Brian Retkin for a full award of costs against North Hertfordshire District Council.
 - The appeal was against the refusal of the Council to grant permission in principle for the demolition of existing residential bungalow and outbuildings and new residential build of 2 detached and 2 semi-detached houses with gardens and on-site parking.
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Decision

1. The application for an award of costs is allowed 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.
3. The PPG includes examples of unreasonable behaviour by planning authorities that may lead to a substantive award of costs. The applicant contends that the Council has behaved unreasonably due to it preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations.
4. The Council's reasons for refusal were based on the effect of the proposed development on the character and appearance of the area and the living conditions of occupants of existing neighbouring properties and future occupants of the proposed development. The reasons for refusal and the Delegated File Note refer to the layout plan submitted with the application. However, as I have found in my main decision, the precise layout of the proposed development is a matter for Technical Details Consent, rather than at the permission in principle stage. Consequently, I conclude that the Council has acted unreasonably in refusing permission on these grounds and the applicant has incurred additional and wasted expense in having to make the appeal.
5. The applicant considers that the Council acted unreasonably insofar that they did not initiate any constructive co-operation or dialogue. While the Council has not sought to defend its position with regard to this application for costs, I note that the decision notice and the Delegated File Note state that this was due to the fact that they did not consider any such dialogue would have resulted in a favourable outcome. Notwithstanding that my conclusion in the main decision

differs from that of the Council, I do not consider that the lack of such dialogue amounts to unreasonable behaviour.

6. The applicant noted that the response from Knebworth Parish Council was outside of the twenty-one-day consultation period, and that the comments should have been disregarded. While the response was received beyond the statutory period, the comments were submitted before the application was determined.
7. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

8. 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 North Hertfordshire District Council shall pay to Mr Brian Retkin, the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to North Hertfordshire 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.

J Pearce

INSPECTOR