
Costs Decision

Site visit made on 17 December 2024

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th January 2025

Costs application in relation to Appeal Ref: APP/D0515/W/24/3347881 129 Knights End Road, March, Cambridgeshire PE15 9QD

- 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 Fenland District Council for a partial award of costs against Mr M Taylor.
 - The appeal was against the refusal of planning permission for erection of up to 5 dwellings (outline application with all matters reserved).
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Decision

1. The application for a partial 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. Unreasonable behaviour on the part of an applicant may include delay in providing information, only supplying relevant information at appeal when it was requested, but not provided, at application stage or introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen.
4. The costs application is made on the basis that the Council considers the applicant has acted unreasonably by introducing new evidence in support of the appeal scheme in the form of an amended plan and new technical reports, that were not part of the original planning application submission. Furthermore, they suggest that the applicant has used the appeal process to advance a more thorough application and the submission of the new evidence has necessitated the requirement to undertaking additional consultations which has incurred considerable and unnecessary administration costs by external consultants advising the Council.
5. In response the applicant suggests that the Council failed to engage constructively with them during the application process and the submissions were to provide clarity and to further address specific grounds for refusal.
6. Given that the amended plan is for indicative purposes only, I do not find that this materially alters the proposed development given the scheme is for outline planning permission with all matters reserved.
7. The Council's pre-application advice letter dated 19 May 2023 (Council ref: 23/0028/PREAPP) does not specify a requirement for the applicant to submit

technical reports in the form of noise, tree and ecology assessments with the planning application. Moreover, I have not been provided with any subsequent evidence to indicate that the Council requested these documents from the applicant prior to their decision, for example at validation stage (in line with a local validation checklist) or prior to determination of the planning application.

8. Whilst it is not unreasonable to expect a planning agent to advise an applicant of the potential need for such assessments or to check consultation responses uploaded to the Council's portal, in the absence of a specific request from the Council, I cannot be certain that the applicant themselves would have anticipated this requirement until they received the decision.
9. Furthermore, I do not consider the technical reports to constitute the evolving of the appeal proposal and the Council has had opportunity to review and comment on this evidence in their appeal statement. This is work that the Council would most likely have had to undertake anyway had the technical reports been submitted with the planning application. Even though this resulted in the Council no longer defending all of its reasons for refusal, the provision of the amended and additional supporting documents would not have prevented the need for the appeal with regards to the other main issues.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Conclusion

11. As a result, having considered the above, I conclude that unreasonable behaviour by Mr M Taylor, as described in the PPG, has not been clearly demonstrated. Therefore, unnecessary or wasted expense has not been incurred by the applicant. Consequently, the application for an award of costs is refused.

H Marriott

INSPECTOR