



Costs Decision

Hearing Held on 24 - 25 November 2020

Site visit made on 26 November 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2020

Costs application in relation to Appeal Ref: APP/N2535/W/19/3221725 Good's Farm, Meadows Lane, Reepham, Lincolnshire

- 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 M Good and Son Limited for a full award of costs against West Lindsey District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for a development described as 'Erection of 25 dwelling houses, including the reconstruction of the existing barn and boundary walls to facilitate its use as a single dwelling, associated garaging, car parking, access roads, landscaping, public open space and footpaths'.
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Decision

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

Preliminary Matter

2. The application for an award of costs was made in writing before the hearing opened. The Council likewise responded to the application in writing in advance of the hearing. The applicant was afforded a right of response at the hearing but no further comments when made. Thus, I have considered the application based on the written submissions before me.

Reasons

3. Irrespective of the outcome of the appeal, the Planning Practice Guidance (PPG) states that an award of costs may only be made against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
4. The applicants allege that the Council refused the planning application without any advanced notification or warning and this deprived them of the opportunity to address some of the Council's concerns and identify possible solutions.
5. The National Planning Policy Framework explains that local planning authorities should approach decision making in a positive and creative way and should work proactively with applicants. However, there is no requirement compelling local planning authorities to inform an applicant of how they are going to determine an application before doing so. The decision notice serves the purpose of clearly and concisely explaining how an application has been determined and, where applicable, the reasons for refusal.

6. It can be beneficial and generally conducive with good customer service to inform an applicant that a refusal of planning permission is on its way, especially when there has been lengthy pre application engagement. However, there may be circumstances where this is not possible and, occasionally, there may be little to gain if the matters concerning the Council relate to the principle of development, which is the case in this instance. The Council have also suggested that they were seeking to save the applicants the cost of further survey work, which would ultimately have been submitted in support of an application that the Council considered to be fundamentally at odds with the development plan. This was a reasonable approach in the circumstances.
7. The applicants have provided additional evidence in relation to protected species with the appeal. This is a concession that it was necessary. As such, the Council did not act unreasonably in refusing the proposal on these grounds. The Council are under no compulsion to agree a time extension or defer the consideration of the application to allow further surveys. The fact that it did not is understandable in this instance given the other concerns raised. Moreover, a prompt decision can be beneficial to an applicant in order that they may take stock. It also provides the local community with an outcome.
8. Similarly, the Council are not required to engage in negotiations regarding the level of affordable housing that should be provided. The onus is on the Council to determine whether the level of affordable housing proposed is acceptable, and this is what it did. Negotiating on such matters can be of benefit, particularly as it enables the Council to test its concerns prior to a refusal and ensure they can be substantiated, but it is not obligatory.

Conclusion

9. In light of the above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not occurred and therefore an award of costs would be unjustified.

Graham Chamberlain,
INSPECTOR