



Costs Decision

Site visit made on 12 August 2019

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2020

Costs application in relation to Appeal Ref: APP/D2510/W/19/3229599 Authorpe Methodist Church, Main Road, Authorpe, Louth LN11 8PG

- 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 Thomas Connolly Estate Agents for a partial award of costs against East Lindsey District Council.
 - The appeal was against the refusal of planning permission for change of use and conversion of Authorpe Methodist Church to a one-bedroom dwelling-house.
-

Decision

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

Reasons

2. Irrespective of the outcome of an appeal, Paragraph 030 of the National 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.
3. Unreasonable behaviour can relate to procedural matters (ie the appeal process) or substantive matters (ie issues related to the planning merits of the appeal). Paragraph 049 of the PPG provides a list of examples of behaviour by local planning authorities that may be deemed to be unreasonable in respect of the substance of the matter under appeal. The examples provided include "acting contrary to, or not following, well-established caselaw."
4. In summary, it is asserted by the applicant that the Council behaved unreasonably, resulting in the applicant incurring unnecessary expense dealing with part of the appeal, as it didn't assess the National Planning Policy Framework (the Framework) correctly in respect of paragraph 79 of the Framework. Furthermore, it is submitted that the Council didn't demonstrate that it has a five-year supply of housing land, and the tilted balance could have resulted in a different decision being reached. The Council has not explicitly responded to the application for costs.
5. With reference to established caselaw, I concluded in my appeal decision that the building is not isolated, in the context of paragraph 79 of the Framework, and as such there is no requirement to apply the subsequent exception criterion within paragraph 79. Consequently, I conclude that the Council did act unreasonably in this regard and this caused the applicant unnecessary expense.

6. Turning to whether the tilted balance should have been applied, I noted in my decision that neither party provided any real evidence to demonstrate this either way. That said, even if there is not a deliverable supply of housing, the Council could have concluded, as I have, that the benefits of the proposal do not outweigh the harm identified. Taking this into account, and the lack of evidence to suggest that there is not a deliverable supply of housing, I consider that the Council have not acted unreasonably in this respect.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in relation to dealing with the misapplication of paragraph 79 of the Framework and therefore a partial award of costs is justified.

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 East Lindsey District Council shall pay Thomas Connolly Estate Agents, the costs of appeal proceedings, described in the heading of this decision, limited to those costs incurred in contesting the misapplication of paragraph 79 of the Framework.
9. The appellant is now invited to submit to East Lindsey 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. If the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

J Williamson
INSPECTOR