



Costs Decision

Site visit made on 21 May 2019

by **G Jenkinson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th July 2019

Costs application in relation to Appeal Ref: APP/C3105/W/19/3220463 Streamways, 8 Rectory Close, Wendlebury, Bicester, Oxon.

- 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 and Mrs Robert Hooke for a full award of costs against Cherwell District Council.
 - The appeal was against the refusal of planning permission for the erection of new detached dwelling with integral garage.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 application essentially relies on the applicant's argument that the Council has failed to communicate with the applicant sufficiently and they failed to refer to the Flood Risk Assessment (FRA) submitted in determining the application.
4. Planning Practice Guidance indicates that Local planning Authorities will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. A planning decision is a matter of judgement. The applicant claims that the Council would not engage in conversation with them after the previous application was refused and they took some time to respond to their telephone calls after the second application was not determined in the statutory timeframe. They also claim that the Council did not consider the FRA submitted as part of the appeal.
6. I note that the applicant chose not to engage in any pre-application discussions with the Council prior to the submission of the application. In the circumstances, whether it took five days for the Council to return a telephone call – they aim to take no longer than three days – is not significant and, besides, the application was determined within the eight-week period, and in accordance with all legislative requirements.
7. I have given detailed consideration to the FRA submitted and I find that whilst it demonstrates that flood resilient measures can be implemented during the construction of the property it fails to demonstrate that there are no available

sites with a lower probability of flooding. As such, the site would not pass the Sequential Test and, as presented, the FRA is inadequate.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and the claim for costs is therefore refused.

Gemma Jenkinson

INSPECTOR