

Costs Decision

Hearing held on 18 October 2016

Site visit made on 18 October 2016

by Richard S Jones BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 November 2016

**Costs application in relation to Appeal Ref: APP/X1545/W/16/3151358
Land at the corner of Fambridge Road and St Stephens Road, Cold Norton,
Essex CM3 6NP**

- 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 Maldon District Council for a full award of costs against Miss Anne-Marie Pharoah.
 - The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the siting of a mobile home as agricultural workers dwelling for a temporary period of 3 years.
-

Decision

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

Reasons

2. Paragraph 030 of Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. For substantive matters, paragraph 053 of PPG states that "the right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding."
 4. It is the Council's position that in lodging this appeal, the appellant has acted unreasonably and has led to the Council incurring unnecessary expense in defending the appeal. However, as the Council did not validate the application, the appellant had little option but to appeal against the failure of the Council to issue a notice of their decision within the prescribed period.
 5. Moreover, it will be seen from my decision that I have found that a functional need for a dwelling to be located at the holding has been satisfactorily demonstrated by the evidence supporting the application and that given at the hearing. I have also found that there is sufficient evidence to suggest that the enterprise has been planned on sound financial basis and that a firm intention and ability to develop the enterprise has been demonstrated. Accordingly, the criteria of Policy CC15 of the Maldon District Replacement Local Plan (LP) have been met and special circumstances exist, as required by the National Planning
-

Policy Framework (the Framework), to justify an essential need for a temporary agricultural worker's dwelling at the holding.

6. Although the Framework encourages pre-application discussion, local planning authorities cannot require such engagement before submitting a planning application and failure to do so does not amount to unreasonable behaviour that would warrant an award of costs against the appellant. Moreover, it is clear from the Application Statement that the appellant sought to provide additional information and evidence following consideration of the Officer's report for the previous refusal (planning application reference FUL/MAL/15/00911).
7. Whilst late evidence was provided at the hearing, in the form of unaudited accounts, this information was not substantial and the Council was able to respond after a short adjournment and it did not result in extra expense for preparatory work that would not otherwise have arisen.

Conclusion

8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not therefore justified.

Richard S Jones

Inspector