

Costs Decision

Hearing and site visit held on 28 June 2016

by A U Ghafoor Bsc (Hons) MA MRTPI

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

Decision date: 05 December 2016

Costs application in relation to Appeal Ref: APP/H1515/W/16/3142748 Wenlocks Meadow, Wenlocks Lane, Blackmore, Essex CM4 0JS

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Brentwood Borough Council for a full award of costs against Ms Bookerstein.
 - The hearing was in connection with an appeal against the refusal of planning permission for change of use from agriculture to residential, stationing of one mobile home for a gypsy without complying with a condition attached to planning permission Ref BRW/867/2000, dated 14 February 2003 by Appeal Ref: APP/H1515/A/01/1056266.
-

Decision

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

The submissions for the Council

2. The following key points form the basis of this application. The appeal had no reasonable prospect of succeeding. The development is clearly not in accordance with the Development Plan¹, and no other material considerations are advanced that indicate the decision should have been made otherwise. Where other considerations are advanced, there is inadequate supporting evidence. New issues, such as personal circumstances, were introduced without submission of adequate information for the Council to respond.
3. The submitted documentation includes inaccurate information for example, paragraph 2.2 states that the case officer did not visit the site, and paragraph 4.4 states site is not in the Green Belt. Selectively quoted Government policy and then reaching a contrary conclusion. The Appellant has failed to address a key material planning consideration that is planning permission² granted on 14 February 2003 for the residential caravan use of the appeal site (the 2003 permission).
4. The professionally represented Appellant has acted unreasonably because the appeal should never have been submitted. The Council seeks reimbursement of its full costs for the time spent by staff in preparing for an appeal and attending the appeal event. This includes administrative work.

The response by Appellant

5. The Council accepts there is a significant need for additional gypsy and traveller pitches. The Development Plan is out of date. Personal circumstances have been

¹ Saved policies contained in the Brentwood Replacement Local Plan 2005.

² Appeal ref: APP/H1515/A/01/1056266 and Council ref: BRW/867/2000.

explained early on in the process, because the planning application was submitted to remove condition 2) of the 2003 permission in the light of change in circumstances. Oral and written evidence had been presented. The Appellant's statement included incorrect information but these were typographical errors. It did not prejudice the Council. The Appellant considers there was a chance in a positive outcome and exercised her right of appeal.

Reasons

6. The National Planning Practice Guidance (PPG) indicates parties in planning appeals and other planning proceedings normally meet their own expenses. That an award may be either procedural in regard to behaviour in relation to completing the appeal process or substantive which relates to the planning merits of the appeal. In this case, I have seen nothing to suggest the Appellant had behaved unreasonably because of not meeting agreed timescales. The Appellant presented an appeal decision, which I have examined and referred to in my decision. However, late submission of this document did not cause any delay. There is no evidence of deliberate resistance to, or lack of co-operation with the other party or parties in providing information. Delay had not been caused by reason of prevarication.
7. The PPG indicates that the right of appeal should be exercised in a reasonable manner. It appears to me an assessment was made that a material change in circumstances warranted an application. My decision explains why I have not found favour with the Appellant's case. Essentially, I have found that the other material considerations advanced in support of the appeal proposal do not clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. There are no very special circumstances to justify development without complying with condition 2) imposed on the 2003 permission. Nonetheless, I consider sufficient evidence had been submitted to substantiate and support the grounds of appeal.
8. The Appellant's statement contained some typographical errors. However, I have seen nothing to indicate prejudice to the Council as a result of these minor mistakes.
9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs, partial or full, is unjustified in this case.

A U Ghafoor

Inspector