

Costs Decision

Site visit made on 22 November 2016

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 22 December 2016

Costs application in relation to Appeal Ref: APP/V1505/W/16/3154321 Land to the East of 24 St Teresa's Close, Basildon, Essex SS14 1SW

- 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 Aedis Homes Ltd for a full award of costs against Basildon District Council.
 - The appeal was against the refusal of planning permission for the construction of 2 properties.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 officer's recommendation in the Council's committee report was that planning permission should be granted. It is entirely within the remit of Members to come to a different view from that of its professional officers. In these circumstances, the PPG states that an authority is expected to produce relevant evidence on appeal to support its decision.
 4. The Council argues that the proposed development would have a substantial impact on the amenities of the locality. It does refer to the building's scale and mass affecting the open space and its quality. Although I have come to a different view, it is accepted that effects of a development on the character and appearance are a subjective matter. I am aware that there was a previous planning permission on the site for one dwelling which is purported to have commenced. However, every proposal has to be considered on its particular planning merits. On this basis, the Council have been specific in identifying the harm and provided evidence to substantiate their objections.
 5. Turning to highway matters, the Highway Authority has raised no objections to the proposal. It has been highlighted that members have local knowledge of the site and traffic conditions in the area. However, this has not been used to substantiate arguments regarding alleged harm. Furthermore, the proposal provides car parking in accordance with its adopted standards. The Council has failed to explain why such standards should not be taken into account or provided evidence to show the lack of on-street car parking. Consequently it
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has not been in a position to argue disturbance and delay to the free flow of traffic in the area. Therefore, its reason for refusal represents vague and generalised assertions and its case fails to demonstrate why the Highway Authority's view should be put aside. As a result, it has resulted in an unnecessary behaviour and expense for the applicant in addressing the highway reason for refusal.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

7. 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 District Basildon Council shall pay to Aedis Homes Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the Council's highway reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to District Basildon Council, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Jonathon Parsons

INSPECTOR