
Costs Decision

Site visit made on 21 December 2016

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 23 January 2017

Costs application in relation to Appeal Ref: APP/J1535/W/16/3158086 Land at Harlow Road, Moreton Ongar, Essex CM5 0DL

- 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 Allen Neville for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for new housing development.
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Decision

1. The application for a full award of costs is refused.

Reasons

3. The Planning Practice Guidance ('PPG') advises that, irrespective of the outcome of the appeal, costs may only 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.
4. Paragraph 49 of the PPG indicates that costs may be awarded against a local planning authority where it refused to enter into pre-application discussions when a more helpful approach would probably have resulted in the appeal being avoided altogether or the issues of the appeal being narrowed with a consequential saving of expense.
5. In this case the Council contend that a meeting¹ was held and verbal comments given. Although I do not have the benefit of hearing the discussion at that meeting or any minutes, the appellant does not dispute that a meeting was held and it does appear that the Council engaged with the appellant. Whilst the Council's lack of a written response may not have been helpful, I conclude that it was unlikely that such a formal written response would have resulted in the appeal being avoided and that the Council's actions in this respect did not result in unnecessary or wasted expense in the appeal process.
6. The Council's reasons for refusal set out in the decision notice are complete, specific and relevant to the application. They also clearly state the policies of the development plan that the proposal would conflict with, which are in accordance with the most up-to-date national policy. The Council were also correct, in my view, in ensuring that 'Access' was considered at the outline stage and acted accordingly. To my mind, it would have been inappropriate to leave such a consideration to the 'reserved matters' stage where there are

¹ 27 November 2015.

clear concerns regarding the principal of the access and its location as opposed to matters relating to its detailed design.

7. Although three of the reasons relate to the level of information submitted, I am satisfied by the justification that has been given in the Council's submissions. Although I have not found it necessary to deal with them in any detail in my Decision, such reasons relate to the principle and suitability of a site for the development proposed and any such concerns or objections should be resolved, as far as is practically possible, at the outline stage because if granted that is the planning permission.
8. Moreover, the fundamental dispute between the parties in terms of Green Belt and highway safety matters could have only been resolved at appeal. The Council's conclusions in relation to Green Belt and highway safety, which I am satisfied were properly reached meant that an appeal was inevitable. In this respect the Council's actions were not unreasonable and did not result in the appellants being required to incur unnecessary or wasted expense in the appeal process.
9. Therefore, I find that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated in the evidence before me. For this reason an award of costs is not justified.

Richard Aston

INSPECTOR