



Costs Decision

Site visit made on 30 May 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 5 June 2017

Costs application in relation to Appeal Ref: APP/M1595/W/17/3170360 587-589 London Road, Thurrock, West Thurrock, Essex RM20 4AR

- 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 Richard West of the Waltham Forest Friendly Society for a full award of costs against Thurrock Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a new mixed-use building comprising of a ground floor retail shop unit with a separate self-contained 2-bed flat on the upper floors.
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Decision

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

Reasons

2. The National 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 or wasted expense in the appeal process. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations.
3. The Appellant submits that the Council has acted unreasonably in that it had refused planning permission on grounds relating to land ownership rather than the planning merits of the case. Had the Council not acted unreasonably, it would have granted planning permission and the Appellants entire expenses attributable to the appeal would have been unnecessary. The Council have not provided any response to the costs application.
4. In my appeal decision, I noted that the Council did not raise any material planning issues which would weigh against the development, other than those which ultimately came down to land ownership matters. Consequently, I found that the Council's objections to the development had little relevance to the planning merits of the case.
5. It appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constituted unreasonable behaviour contrary to the guidance in the National Planning Policy Framework and the PPG. Therefore,

the appellant has been faced with the unnecessary expense of lodging the appeal.

Conclusion

6. For the above reasons I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and therefore a full 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 Thurrock Borough Council shall pay to the Waltham Forest Friendly Society, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Thurrock Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Chris Forrett

INSPECTOR