



Costs Decision

Site visit made on 16 July 2019

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 August 2019

Costs application in relation to Appeal Ref: APP/N1540/W/19/3220966 Paradise Lodge, Netteswell Hall, Park Lane, Harlow CM20 2QH

- 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 Mrs J Ghadami of Netteswell Limited for a full award of costs against Harlow District Council.
 - The appeal was against the refusal of planning permission for erection of 30 dwellings and associated parking and landscaping.
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Decision

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

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. Whilst there has been claim and counter claim made by the main parties regarding the appropriateness of comments made in the application of costs by the applicant and the response by the Council, my assessment is based on whether the applicant incurred unnecessary or wasted expense in the appeal process.
4. There is disagreement between the parties regarding the historic value of Netteswell Hall, now known as Paradise Lodge. Just because the building is not statutorily listed does not mean that it lacks any local historic merit. The applicant says the Council did not have any regard to the Heritage Statement they prepared for the appeal. However, the Council do address points contained within the statement, even if it is not specifically cross referenced.
5. In the absence of a Conservation Area Appraisal the Council used the evidence available to it in reaching its conclusions regarding the proposal. Whilst some reference is made to social media, the Council also provided a copy of a job advert which referenced Netteswell Hall and so the Council's evidence was not completely unsubstantiated. Even if limited weight can be applied to some of the Council's evidence, it remains the case that the building is an under represented form of architecture within the town and reaching a different conclusion to the applicant on the importance of this does not constitute unreasonable behaviour.

6. The applicant claims that the Council failed to demonstrate case management in requesting an extension of time for the submission of their statement because of a delay in receiving historic information from Essex County Council. However, after the applicant refused to agree to the extension the Council submitted their statement within the required timeframe. They did not therefore act unreasonably in this regard. I do not know the circumstances regarding Essex County Council's failure to submit their comments to Harlow District Council in a timely manner but this is a matter for them to take up with the County Council.
7. The applicant has also criticised the timescales associated with the Council's involvement in the Unilateral Undertaking. However, it was completed within the timescales of the appeal process. It involved work that would have been required in any event had the planning application been granted planning permission. The Council has agreed to the contents of the Unilateral Undertaking and confirmed, albeit at my request, that they would not be defending the third reason for refusal.
8. The applicant says the Council's evidence regarding housing need is fundamentally incorrect. However, the applicant has not fully explained how this has led to unnecessary or wasted expense. Whilst the applicant says the Council has not demonstrated the Authority Monitoring Report is out of date, the Council did provide housing need information taken from the emerging Local Plan in their statement.
9. The applicant says the Council made contradictory statements on the matter of development fronting the highway. However, on the evidence before me it appears to be a misinterpretation of wording by the applicant. My understanding is that the Council's comments relate to the creation of active edges with the front of buildings facing the highway. This would not be achieved in the layout of the scheme along Netteswell Orchard.
10. The applicant says the Council has been inconsistent in allowing similar development within a Conservation Area. However, the site referred to by the applicant is in a different location, in a different Conservation Area for a different scheme. As each case is determined on its own merits I do not consider, on the evidence before me, that the Council has been inconsistent in its decision making.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

K Ford

INSPECTOR