
Costs Decision

Site visit made on 26 November 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2019

Costs application in relation to Appeal Ref: APP/V1505/W/19/3235924 Land at Readers Yard and The Willows, Moores Avenue, Fobbing, Stanford-le-Hope SS17 9HQ

- 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 G Smith on behalf of G & K Groundworks Ltd for a full award of costs against Basildon District Council.
 - The appeal was against the refusal of planning permission for the erection of three bungalows with associated access from Moores Avenue in lieu of existing buildings and hardstandings.
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Decision

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

Reasons

2. Planning Practice Guidance 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.
3. The applicant considers that the Council failed to suitably justify its decision to refuse planning permission. Furthermore, in doing so, they failed, the applicant considers, to have regard to relevant material considerations and to submitted plans.
4. I first note that the Council's Planning Committee was entitled to come to a different decision to that recommended to them by its officers. This would not be unreasonable, provided that the conclusions drawn were properly substantiated.
5. The sole reason given by the Council to refuse planning permission was based on their consideration that the scheme, which represents the redevelopment of previously developed land in the Green Belt, would constitute inappropriate development by virtue of having a greater impact on the openness of the Green Belt when compared to existing development.
6. The proposal involves the introduction of buildings that would be of greater height when compared to the existing buildings and, in cumulative terms, the scheme would introduce additional built volume. These are important considerations when assessing a scheme's effect on openness and the Council, in their appeal statement, has referred to the proposed dwellings being taller and bulkier in comparison to the existing buildings. These are valid concerns.

In addition, the design and composition of existing and proposed buildings can influence considerations with respect to openness. I thus find that the Council's reference to the existing buildings' dilapidated appearance was not improper.

7. The applicant has noted that the Council did not refer to the site's formative planning history in its appeal statement. Nevertheless, the planning history is laid out in the Council's Committee Report. Furthermore, whilst applications for residential development were dismissed at appeal in 2013, these appeal decisions are not particularly recent and do not set a precedent for allowing development at the appeal site.
8. Notwithstanding my findings with respect to the appeal that is the subject of this application, and any further professional opinions otherwise, I am content that the Council acted reasonably in coming to the conclusions that it did. Indeed, whilst I have noted the applicant's dissatisfaction with respect to how their proposal was presented to the Council's Planning Committee, it seems to me that a rational and satisfactorily substantiated resolution was reached. Development was not prevented that should clearly have been permitted.
9. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Andrew Smith

INSPECTOR