
Costs Decision

Site visit made on 13 November 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2020

Costs application in relation to Appeal Ref: APP/C1570/W/19/3234739 Land to the south of Braintree Road, Felsted

- 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 Oliver Hookway on behalf of Go Braintree Road Ltd for a full award of costs against Uttlesford District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for outline planning permission for the development of up to 30 dwellings with associated roads and infrastructure with access to be determined at this stage with all other matters (relating to appearance, landscaping, layout and scale) reserved.
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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 behaved unreasonably by deferring its decision upon the planning application in order to allow the emerging Felsted Neighbourhood Plan (the EFNP) time to be resolved/made. Furthermore, the applicant is of the opinion that the Council's actions sought to prevent/delay development which should clearly have been permitted.
4. The Council has acknowledged that it acted unreasonably in deferring rather than determining the application when it went before planning committee in July 2019. The deferral was for an undefined time period and would have evidently led to a protracted delay in the application's determination. Nevertheless, whilst all parties are expected to behave reasonably throughout the planning process and actions taken at the time of the planning application can be taken into account here, costs can only be awarded in relation to unnecessary or wasted expense at appeal stage.
5. The proposal is for development of a not insignificant scale outside of the defined settlement limits of Felsted and thus in conflict with the development plan. Whilst there is currently a significant shortfall in the District's housing land supply, and notwithstanding the outcome of the planning appeal to which this costs application relates, it is not the case that development was prevented or delayed which clearly should have been permitted.

6. I have noted the reasons why the previous appeal¹ at the site was dismissed in July 2017, in circumstances where it was found the Council could not demonstrate a five-year supply of housing sites. I consider that the Council acted reasonably in seeking to defend the appeal on grounds related to the effect upon the character and appearance of the rural area.
7. 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

¹ APP/C1570/W/16/3156864