
Costs Decision

Hearing Held on 14 January 2020

Site visit made on 14 January 2020

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 10 February 2020

Costs application in relation to Appeal Ref: APP/W1525/W/19/3236204 Willowbank, Dowsett Lane, Ramsden Heath, Billericay, CM11 1JL

- 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 June Smith for a full award of costs against Chelmsford City Council.
 - The hearing was in connection with an appeal against the refusal of the Council to grant planning permission for development without complying with a condition attached to a previous planning permission for the construction of a bungalow.
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Decision

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

The submissions for the appellant

2. The application was made in writing and was not added to at the Hearing

The response by the Council

3. The response was made in writing and was not added to at the Hearing.

Reasons

4. The national Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own costs in relation to appeals and costs may only 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.
5. Firstly, I do not agree that the proposal should clearly have been allowed. For the reasons set out in the main decision, the Council's case has merit and I agree with it. The circumstances of the case have been judged against the requirements of the Council's relevant policies and I agree that conflict is raised.
6. The Council's consideration of the case has not relied solely on the presence of an offer made for Willowbank; other factors are referred to in the Council's case and were discussed at the Hearing. However, relevant reference is made to the offer made to buy Willowbank; to ignore it would be to ignore the relevance of the marketing exercise which is a requirement of the Council's policies. The fact that the Council acknowledges that there is no present 'need'

- for a dwelling at the appeal site merely recognises that the nursery has ceased to trade. This is in no way contradictory to the Council stating that the appeal property contributes to the local 'pool' of dwellings suitable for people who comply with the condition.
7. The fact that Mr and Mrs Morter own another property at the neighbouring farm has been dealt with in my main decision but I add that the Council are not wrong to take the approach that they have.
 8. I have given consideration to the submitted appeal decisions by both the Council and the appellant. Not surprisingly, each set of decisions supports their respective cases. For the reasons given in my main decision, I consider that there is nothing of overriding weight in the decisions submitted by the appellant that should have compelled the Council to approve the application.
 9. I consider that the Council have provided sufficient evidence and support for their case and the allegations of unreasonable behaviour set out by the appellant are not justified. As a consequence, I conclude that the Council's actions have not been unreasonable. Therefore, the conditions necessary for an award of costs have not been satisfied.

ST Wood

INSPECTOR