



Costs Decision

Site visit made on 16 March 2020 by Thomas Courtney BA(Hons) MA

Decision by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2020

Costs application in relation to Appeal Ref: APP/Z1510/W/19/3241659 98-104 London Road, Braintree, Essex, CM7 2AS

- 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 Andrew Porter of Porteramm Ltd for a full award of costs against Braintree District Council.
 - The appeal was against the refusal of planning permission for the construction of five dwellinghouses and a garage without complying with a condition attached to planning permission ref APP/Z1510/W/18/3218279 dated 15 May 2019.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. It goes onto state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example by preventing development which should clearly be permitted having regard to its accordance with the development plan and other material considerations, or by refusing to enter into discussions when a more helpful approach could have resulted in the appeal being avoided.
4. The applicant states that the Council was obstructive and vexatious, failing to responsibly agree to a way forward acceptable to all parties. However, as planning permission has already been granted for five dwellings on the site, a way forward had already been resolved; and although it was suggested in the appeal statement that the extant permission could not be implemented, it was not satisfactorily demonstrated that this justified the all the alterations.
5. The appeal statement provided by the applicant also questioned the relevance of some policies relating to the appeal site being outside the boundaries of Braintree's development envelope, in light of the changing character of the surrounding area. However as was clear by the Council's reasons for refusal, the settlement boundary was not a determinative issue in the Council's decision as the site already has permission for residential development.

6. The Council accurately assessed the proposed development in relation to the immediate context on London Road. Their view on the appearance of the development and its relationship with the street scene was made sufficiently clear in the officer's report, and as the scheme was visually different from the implemented permission, it was not unreasonable for the Council to come to a different view.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Consequently, the application for an award of costs is refused.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

8. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application is refused.

Andrew Owen

INSPECTOR