



Costs Decision

Site visit made on 12 August 2019

by L Gilbert BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th June 2020

Costs application in relation to Appeal Ref: APP/Z1510/W/19/3229655 Land South of 30 Colne Park Road, White Colne CO6 2PL

- 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 Triple Five Asset Limited for a full award of costs against Braintree District Council.
 - The appeal was against the refusal of planning permission for the erection of 3 residential units, with associated garages and alterations to existing vehicular access.
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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. The appellant's claim relates to the purported failure of the Council to take account of an appeal decision from May 2019 (reference APP/Z1510/W/18/3219233). This decision found that the Council was unable to demonstrate a 5 year supply of housing and that Paragraph 11(d) of the National Planning Policy Framework, or so called 'tilted balance' should be engaged. Although the Council initially argued that it was able to demonstrate a 5 year housing supply in this appeal, it has since accepted it cannot.
4. Certainly, the Council's position on housing supply appears to have changed over time. However, I have little evidence to conclude that the Council's behaviour was intrinsically unreasonable on this matter. Also, it is not clear how unnecessary or wasted expense has been incurred as part of the appeal process as a result of the Council's stance on housing supply. Furthermore, given that the Council had fundamental concerns regarding the proposal, there is no evidence to suggest that it would have reached a different decision.
5. The second reason relates to the length of time it took for the Council to determine the planning application and the lack of response from the planning department during this period. The Council has provided some reasons for the delay. Nonetheless, I fully appreciate the appellant's frustrations at the excessive time taken to determine the application. I understand that a complaint was lodged with the Council because of the delays, and that the Council has since apologised. The PPG, however, is clear that costs cannot

normally be claimed for the period during the period of the determination of the planning application.

Conclusion

6. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. I therefore determine that the costs application should fail and no award is made.

L Gilbert

INSPECTOR