
Costs Decision

Site visit made on 15 January 2020

by L Gilbert BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2020

Costs application: APP/Z1510/W/19/3236106

Land to the west of the Old Coach House and south of Silver Street, Wethersfield

- 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 Wethersfield Developments Ltd for a partial award of costs against Braintree District Council.
 - The appeal was against the refusal of planning permission for the proposed erection of 5, two bedroom, one and a half storey dwellings with associated infrastructure.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that parties in planning appeals should normally meet their own expenses. However, 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 argues that the Council failed to consider the changed character of the area as a result of recent development nearby. However, the Council's Committee Report does provide an assessment of the area's character and refers to the adjacent recent residential development. Assessments regarding the character and appearance of an area are necessarily subjective and open to debate. On balance, and notwithstanding the conclusions in my decision, I do not consider that it was unreasonable for the Council to reach the view it did on this matter.
4. The appellant claims that the officer's report failed to fully explain the site's planning history and argues, contrary to the Council, that the appeal and neighbouring sites were not intentionally split in order to avoid providing affordable housing. The appeal site's planning history and its link to the neighbouring site are discussed in the Council's Committee Report. As is clear from my decision, I am satisfied that the appeal site was not intentionally subdivided by the appellant. However, given the site's complex history, and the Council's own guidance, I do not consider that the Council's stance was intrinsically unreasonable.
5. The appellant complains that amended plans and additional information were not reported to the Committee meeting held in February 2019. The appellant also complains more generally that numerous efforts were made to work with the Council during the application process without success. I am satisfied

with the Council's explanation that the February Committee Report had already been published by the time the documents were received. However, given that the next Committee meeting that considered the application took place over a month later in March, it is hard to see why the amended plans and information could not have been formally incorporated into a revised report to the Committee. This is unhelpful and verges towards unreasonable behaviour.

6. On the other hand, the Council has stated that a letter from the appellant dealing with amended plans, along with other detailed matters, was submitted directly to the Members of the Committee, so that they were fully aware of the additional information in reaching their decision. Importantly, I also accept the Council's point that the appellant did not formally seek any pre-application advice so as to resolve any potential future problems in a timely manner. The National Planning Policy Framework¹ strongly advocates pre-application discussions to avoid misunderstandings and delays such as this in the application process.
7. Overall, taken as a whole, I am not convinced that the appellant has demonstrated unreasonable behaviour that has resulted in wasted expense in the appeal process. The application for costs is therefore refused.

L Gilbert

INSPECTOR

¹ Paragraphs 39-41