



Costs Decision

Site visit made on 8 September 2020

by L Gilbert BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2020

Costs application in relation to Appeal Ref: APP/P1560/W/20/3250789 Land rear of One Oak, Colchester Road, Thorpe Le Soken, CO16 0LB

- 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 SPS Building Company Ltd for a full award of costs against Tendring District Council.
 - The appeal was against the grant subject to condition 17 of planning permission for the erection of 9 bungalows (submission of details following outline planning permission 17/00925/OUT allowed on appeal).
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance 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. Whilst the Council is correct that the National Planning Policy Framework encourages net gains in biodiversity, I have found that the condition was imposed contrary to advice in the Planning Practice Guidance¹ as it did not directly relate to the reserved matters. This was poor procedure on behalf of the Council.
4. The Council has therefore behaved unreasonably and thereby caused the party applying for the costs to incur wasted and unnecessary expense in the appeal process.

Costs Order

5. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Tendring District Council shall pay to SPS Building Company Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
6. The applicant is now invited to submit to Tendring District Council, details of those costs with a view to reaching agreement as to the amount.

L Gilbert

INSPECTOR

¹ Paragraph: 025 Reference ID: 21a-025-20140306