

Costs Decision

Site visit made on 5 January 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2021

Costs application in relation to Appeal Ref: APP/P1560/W/20/3257132 45 Harwich Road, Lawford CO11 2LS

- 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 & Mrs D Spurgin for an award of costs against Tendring District Council.
 - The appeal was made against the refusal of planning permission for erection of two dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably and such behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The applicants' basis for claiming full costs relates to the Council's alleged unreasonable behaviour in its refusal of the initial application, resulting in the submission of a second application and also the submission of the planning appeal.
 4. In terms of timing of the two applications and appeal, I note that the appeal in this case is dated 3 August 2020, after planning permission was granted for the second application, for two semi-detached dwellings, on 14 July 2020 (ref 20/00338/FUL). It is reasonable to assume that the applicants' primary objective is to secure permission for two dwellings and, ultimately, it was their decision to submit an appeal for an alternative scheme after permission had been granted. That decision did not stem directly from any behaviour of the Council. I have, therefore, confined my consideration of the costs application to the alleged unreasonable behaviour with regard to the Council's refusal of planning permission for two detached dwellings.
 5. I am not aware from the costs submissions that the applicants provide any further reasons why they consider the Council's refusal of the first application is unreasonable. Nonetheless, as a general principle, planning authorities are not bound to accept the recommendations of their officers, as is the case here.
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However, authorities should be able to demonstrate reasonable planning grounds for taking a different approach to that recommended and produce relevant evidence to support the decision in all respects.

6. The Council's evidence is realistic and specific, including reference to the context for the development and relevant development plan policies, to support its judgement of the consequences of the proposed development in this location. These considerations relating to the effects of development on local character involve matters of judgement and views can differ between Council officers and members. Acknowledging that such matters of judgement were involved here, I consider that the Council provided sufficient relevant information with regard to the effect of the proposal on the character and appearance of the area. The fact that the appellant disagreed with this assessment, as I also did, does not alter this finding and, for the reasons given, the Council's approach does not amount to unreasonable behaviour on its part.
7. The Council was required by the relevant regulations to assess the likely effects of the proposed development on a protected European site in accordance with the established approach in the Essex Coast Recreational Avoidance and Mitigation Strategy. Having found that the proposal would result in likely significant effects, it took the correct approach in refusing permission in the absence of means to mitigate those likely effects. As such, the Council's approach was not unreasonable.
8. Accordingly, having considered this costs application on its merits, for the reasons given I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

J Bell-Williamson

INSPECTOR