
Costs Decision

Site visit made on 26 January 2021

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 17th February 2021

Costs application in relation to Appeal Ref: APP/Z1510/W/20/3261576 Smeetham Hall Lane, Bulmer, Essex CO10 7EU

- 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 Braintree District Council for a full award of costs against Mr A Hyde Parker.
 - The appeal was against the refusal of planning permission for demolition of existing garages and erection of two dwellings, garages, access and landscaping and restoration of existing pump station.
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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 where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. It adds that an applicant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. This may occur when the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.
4. A previous scheme for the site with the same description as that subject of this appeal, was refused planning permission by the Council and was dismissed at appeal in December 2020. However, the Applicant submitted this appeal before receiving the decision for the previous appeal. As such, since the Applicant did not have the previous Inspector's decision at the time of submitting this appeal, the basis of the submission of this appeal is not unreasonable notwithstanding the similarity of the two schemes.
5. In addition, once the previous appeal had been decided, the Applicant sought to address some of the issues raised by the previous Inspector in their letter dated January 2021 which responded to the Council's appeal statement. The points raised include those relating to housing supply and accessibility of the location, which are matters of planning judgement. As such, there is no certainty that this appeal had no reasonable prospect of succeeding. Therefore,

although I have come to the same conclusion as the previous Inspector, the Council did not incur unnecessary expense in the appeal process.

Conclusion

6. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Sabu

INSPECTOR