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## Costs Decision

Site visit made on 19 January 2021

**by Richard Aston BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 February 2021**

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### **Costs application in relation to Appeal Ref: APP/C1570/W/20/3259894 Pathwoods, Bardfield End Green, Thaxted CM6 3PZ**

- 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 Adrian Sykes c/o Skye Property Group Limited for a full award of costs against Uttlesford District Council.
  - The appeal was against the refusal of planning permission for the erection of a single dwelling.
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### **Decision**

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

### **Reasons**

2. The applicant contends that the Council acted unreasonably and caused additional unnecessary costs. It refers to the full statement of case as providing reasons. I found this approach to be somewhat difficult to follow but on my reading the main thread throughout the submissions is that the Council ignored the requirements of the National Planning Policy Framework ('the Framework') gave greater primacy to the development plan and because a housing land supply of 2.68 years was not in dispute, that 'they had no right to refuse this planning application'<sup>1</sup>. No response has been received from the Council to this application.
3. My attention has also been drawn to the decision of another Inspector in a different administrative area, where an award of costs was allowed<sup>2</sup>. The short extract I have been provided with simply reiterates the advice in the Planning Practice Guidance ('the PPG') that irrespective of the outcome of the appeal costs may be awarded against the party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. In this case, the reason for refusal clearly states the relevant policies of the local plan but omits the adopted Thaxted Neighbourhood Plan, albeit that is referred to and considered in the delegated officer report. The officer report is clear that Policy S7 is recognised as being only partially consistent following an independent review and that a 5-year supply of housing land cannot be demonstrated.

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<sup>1</sup> Introduction to appellant's statement of case.

<sup>2</sup> APP/P3420/W/19/3221341 Land off Watermills Road, Chesterton.

5. The report also refers to the weight to be given to the policy and identifies the so-called presumption in favour of sustainable development in paragraph 11 d) ii. is engaged. The report then goes on to consider the 3 strands of sustainable development to inform the balancing exercise. Regard is had to the Thaxted Neighbourhood Plan because it forms part of the development plan and to other material considerations. This includes a previous Inspector's decision on the same site in 2017.
6. The report identifies the harm and conflicts the officer considered the proposal would cause and that for the reasons given the '*minor benefit does not significantly and demonstrably outweigh the harms*'. A conclusion on the development plan and the Framework is then made.
7. I acknowledge that the reason for refusal does not repeat word for word the text of paragraph 11 d) ii. and there is some clumsy and muddled wording in the report. On a fair reading overall however, the officer report does not show any substantive or determinative lack of understanding of local or national planning policy that I consider to be unreasonable behaviour.
8. An administrative error was also made with a different site referred to in their statement. Careless maybe but neither this or their overall approach warrants the accusations from the appellant of incompetence, incoherence or that the '*Council is barking up the wrong tree*'. I have also agreed with the Council's approach and assessment as to the effects in the associated planning decision to dismiss the appeal. There is nothing substantive before me that demonstrates the Council have been inconsistent in their approach to decisions in the locality.
9. Overall, whilst I appreciate that the applicant does not agree with the Council's consideration and opinions relating to the effect of the appeal proposal, the issues at the heart of the appeal involve a degree of subjectivity. Given their conclusions, which I am satisfied were properly reached overall, planning permission should not clearly have been granted and an appeal was therefore inevitable.
10. For these reasons, I find that unreasonable behaviour in procedural or substantive terms resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, an award of costs is not justified.

*Richard Aston*

INSPECTOR