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## Costs Decision

Inquiry held on 2 - 3 March 2021

Site visit made on 25 March 2021

**by Phillip J G Ware BSc DipTP MRTPI**

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

**Decision date: 4 May 2021**

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### **Costs application in relation to Appeal Ref: APP/P1560/W/20/3263229 Oakleigh Residential Park, Clacton Road CO16 9DH**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Oakleigh Residential Park Ltd for a full award of costs against Tendring District Council.
  - The inquiry was in connection with an appeal against the refusal of planning permission for a change of use to create a retirement park by allowing the residential use of caravans approved under planning permissions APP/P1560/W/17/318391 and 19/00707/FUL.
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### **Decision**

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

### **Reasons**

2. The costs application was submitted in writing (and was subsequently amended in relation to the name of the claimant), and responded to by the Council in writing, along with a brief comment in closing.
3. 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.
4. The claim was for a full award of costs on the basis that the refusal was unreasonable and not supported by evidence. I will deal briefly with the various aspects of the claim.
5. The claimant alleges that the parking/highways objection made by the Council was based on an incorrect application of the policy and was made in the absence of an objection from the highway authority. I am not persuaded that this was the case and, in any event, this matter was resolved by the appellant by the submission of a revised plan.
6. In a similar vein, the appellant claims that the reason for refusal was unreasonable. However the appellant submitted further information which led to the objection being withdrawn.
7. In relation to both of these matters I find that the Council acted reasonably and that they were appropriately resolved by the submission of further material by the appellant.

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8. Turning to unresolved matters which were the subject of evidence and took Inquiry time, the claimant's position is that the tourist and settlement policies on which the Council relied were either out of date or not yet adopted. The Council therefore was alleged to have acted unreasonably in relying on them. However in my decision on the s78 appeal I have found the adopted policies to not be out of date and that emerging policies should be accorded sufficient weight that they were a material consideration.
  9. The claimant states that the contribution they put forward toward affordable housing was based on an identical appeal decision. I have found that the appeal in question was not identical and that, in any event, there was a wide margin of disagreement between the parties on the affordable housing matter. This was based on understandable but unresolved positions. For there to be different approaches is not inherently unreasonable.
  10. Finally, in the costs claim but not elsewhere, the claimant alleged that the Council's planning committee were influenced by the traveller background of the appellant. In fact the appellant is a company, though I assume from this that one individual behind the company may have a traveller background. I have seen no evidence to support this allegation, and when I raised this matter at the Case Management Conference before the Inquiry, no party wished to pursue it.

### **Conclusion**

11. I find that unreasonable behaviour, as described in Planning Practice Guidance, has not been demonstrated and that a full award of costs is not justified.

*P. J. G. Ware*

Inspector