



Costs Decision

Site visit made on 1 June 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2021

Costs application in relation to Appeal Ref: APP/Z1510/W/20/3264482 Land at Braintree Road, Shalford CM7 5HL

- 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 Mrs Alice Cox for a partial award of costs against Braintree District Council.
 - The appeal was against the refusal of grant of planning permission for the demolition of barns and mobile home and erection of new dwelling.
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Decision

1. An award of costs is refused.

Reasons

2. National Planning Practice Guidance (the Guidance) advises that costs may only 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 appeals process. The Guidance further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally, the Guidance states that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The application for costs relates to a claim by the applicant that the Council introduced new evidence at a late stage during the course of the appeal. In this instance the evidence is in relation to additional material that was submitted as an update to the Council's five year housing land supply position.
4. The planning process is a fluid and not a static environment, whereby matters in relation to housing supply and delivery may change during consideration of a planning application and indeed an appeal. The Council monitors its housing land supply position and as stated within its officers delegated report, it is "*continually working to gather evidence on the updated deliverable supply in the District*". It remains that the position on housing supply is an important material consideration in the determination of development proposals at either planning application stage or during the appeal process. It is relevant to the extent to which policies contained within the development plan relating to the supply of housing can be considered up to date.
5. Although I acknowledge that the submission from the Council was late and after I had undertaken my site visit, the appellant was nonetheless provided with an adequate opportunity to provide additional comments. Furthermore, I considered that acceptance of the evidence at that time would not result in procedural unfairness and my view has not changed. While I accept that the

Council did raise this matter during the appeal process, it was not one that it specifically relied upon in defence of its decision to refuse planning permission.

6. Therefore, I am satisfied that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated and an award of costs is not justified.

Graham Wyatt

INSPECTOR