
Costs Decision

Site visit made on 5 July 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2021

Costs application in relation to Appeal Ref: APP/H1515/W/21/3268297 13 Westwood Avenue, Brentwood, CM14 4PA

- 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 F Macfarlane for a full award of costs against Brentwood Borough Council.
 - The appeal was against the refusal of planning permission for demolition of garage and erection of 1 residential dwelling with associated parking and landscaping.
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Decision

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

Reasons

2. National Planning Practice Guidance (the PPG) states that costs may be awarded against a party that has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour on the part of a local planning authority may include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, acting contrary to, or not following, well-established case law, or not determining similar cases in a consistent manner.
4. The applicant contends that the Council should have allowed the planning application given the shortfall in its housing land supply and historic under-delivery of housing, that the Council failed to apply the presumption in favour of sustainable development and failed to have regard for a recent appeal decision in which permission was granted for backland residential development a short distance from the appeal site. The applicant notes that this scheme has now been built, and forms part of the character of the surrounding area.
5. The Council has not responded directly to the application for costs. However, their appeal statement does address the points raised by the applicant. It states that the presumption in favour of sustainable development was applied in determining the application, but that the benefits of the development were considered to attract limited weight and were clearly outweighed by the significant adverse impact and harm to the character and context of the surrounding area. The Council further addressed the approved backland development, noting that it constituted a linear development forming a cul-de-

sac lying between a linear street scene and an active railway line. It therefore is not comparable to the appeal site.

6. I have found in my appeal decision that the harm arising from the development would not significantly and demonstrably outweigh the benefits. However, this was a matter of planning judgment, and the Council has set out its reasoning for reaching a different conclusion in determining the application. While I do not agree with that conclusion, I do not consider that the Council acted unreasonably in refusing permission.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as defined in the PPG, has not been demonstrated. Accordingly, the application for costs is refused.

M Chalk

INSPECTOR