
Costs Decision

Site visit made on 21 February 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2022

Costs application in relation to Appeal Ref: APP/V1505/W/21/3284282 Meadowbrook, Meadow Way, Wickford, SS12 9HA

- 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 Karen & Martin Brooks for a full award of costs against Basildon District Council.
 - The appeal was against the refusal of planning permission for conversion of existing detached garage to form new dwelling.
-

Decision

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

Reasons

2. National Planning Practice Guidance on planning appeals and the award of costs (the 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. Such 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.
3. The applicants contend that the Council acted unreasonably in not referring to any adopted or emerging planning policies in its decision notice. In addition, the Council focused on paragraph 149 of the National Planning Policy Framework (the Framework) in determining the appeal, where this refers to new buildings in the Green Belt rather than the conversion of an existing building for which permission was sought. The applicants consider that in doing so the Council failed to properly assess the application.
4. The Council responds that it considered the application against policies BAS GB7 and BAS BE12 of its development plan, among other saved and emerging policies. Policy BAS GB7 specifically addresses the conversion of buildings in the Green Belt, and the Council considered the application as submitted.
5. While the Council erred in referring to paragraph 149 of the Framework in its delegated report, Policy BAS GB7 does specifically refer to the conversion of existing buildings and is also cited in the delegated report. It is like paragraph 150 of the Framework, which allows for the re-use of buildings in the Green Belt, subject to specific criteria.

6. While I have found in my appeal decision that the proposal would not amount to inappropriate development in the Green Belt, this was a matter of planning judgment. The Council set out its reasoning for its refusal with reference to the criteria of Policy BAS GB7, and I do not consider that the Council would have been likely to reach a different conclusion on the application had it referred to paragraph 150 of the Framework rather than paragraph 149.
7. While the Council should have referred to the development plan or the Framework in its reason for refusal, its justification for refusing permission is clear when taken together with the delegated report. In this instance, I do not consider that the Council's actions were so unreasonable that they have caused unnecessary or wasted expense in the appeal process.

Conclusion

8. Unreasonable behaviour on the part of the Council 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