



Costs Decision

Hearing (Virtual) held on 8 March 2022

Site visit made on 9 March 2022

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2022

**Costs application in relation to Appeal Ref: APP/X1545/W/21/3276774
Land to the South Of Beckingham Business Park , Beckingham Street ,
Tolleshunt Major, Essex, CM9 8LZ, 589783 , 210762**

- 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 J Baker of Beckingham Business Park Developments Limited for a full award of costs against Maldon District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for erection of 13 No. Business & General Industrial Units (Use Classes B1b, B1c and B2), Office Block (Use Class B1a) and Cafe (Use Class A3), complete with related infrastructure including road, parking spaces, drainage, landscaping and ecological area.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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.
3. The Council do not consider that they have behaved unreasonably and point out that the Planning Committee is entitled to come to an alternative view to the officers' recommendation. It is submitted that the Committee acted reasonably in weighing up the various aspects of the case.
4. I accept that the Council have correctly identified that a Planning Committee decision which goes against officer advice is not a reason to give an award of costs. As the Committee were entitled to come to their own conclusions on the merits of the proposal.
5. The reasons for the refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the Maldon District Approved Development Plan 2014-2029 that the proposal would be in conflict with. Although there was an error in the citing of policy H4, the Council acknowledged this mistake early in the appeal process.
6. The reasons have been adequately substantiated by the Council in its appeal statement. The appeal statement demonstrates how the proposal would result in an unacceptable form of development as the statement has made clear reference to the proposal's impact on the character and appearance of the area.

7. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that in exercising their planning judgement the Council had reasonable concerns about the impact of the proposed development which justified its decision.
8. There is also reference to the conduct and advice of the Council and its officers during the planning application process and the extent to which Councillors failed to properly consider the evidence before them. However it is clear that these matters were fully debated by the Planning Committee and that advice was given to the Committee about a number of other concerns raised by local residents during the consideration of the application.
9. The apportionment of weight is a matter for the decision maker, and in this case, there is no evidence to suggest that the Planning Committee attached an undue amount of weight to the views expressed by local residents, or that it gave them a greater significance in its decision-making process than it gave to national and local planning policies. I consider that the Council has not behaved unreasonably in this respect.
10. With regard to the necessity of a condition regarding foul drainage, the Council had advice from a statutory consultee and also provided a response as to the legality of the condition. The appellant chose to challenge the necessity of this condition through the appeal and sought professional advice on this point. It will be seen from my decision that I have found it necessary to impose the disputed condition. Consequently, I do not consider the Council has acted unreasonably as they were entitled to reach a decision based on the evidence before them at the time.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the application for costs is refused.

G Pannell

INSPECTOR