



Costs Decision

Site visit made on 17 October 2022

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

**Costs application in relation to Appeal Ref: APP/P1560/W/22/3291788
115 Tower Street, Brightlingsea, CO7 0AN**

- 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 Karen Cooke for a full award of costs against Tendring District Council.
 - The appeal was against refusal to grant planning permission for clearing of land and demolish existing garden outbuildings and construct a 2 storey double garage and workshop.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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.

The Application

3. The council has wasted the appellant's time in the suggested conditions set out in Appendix TDC1 to its Statement of Case. Additional and excess costs have been incurred of £2000 for administration and in additional and unnecessary research to respond to and address the nonsensical conditions that were not relevant to the appeal proposal or the appeal site.
4. The suggested conditions clearly relate and refer to a totally different site, including drawing numbers that do not relate to those submitted in this appeal, and seeking to control matters that are not relevant to the appeal site or development. This clearly represents unreasonable behaviour, thereby causing the appellant to incur unnecessary or wasted expense in the appeal process. The costs of responding to the suggested conditions should be awarded.

The Rebuttal

5. In response, the council has made no comments.

Conclusions

6. As will be seen from my decision issued on this case, I have decided in favour of the appellant on the substantive question of whether the proposed

development should be permitted. However, that does not necessarily mean that the claim for costs is justified.

7. The council's suggested conditions are clearly confusing at first sight, and would necessitate time and effort in trying to understand them, and then respond in a meaningful way. I can only assume that this was a mistake by the council, rather than intentional. But whatever the cause, it is unacceptable when dealing with a matter of considerable importance to the appeal, and in this case to the eventual decision, for this to occur. It undoubtedly will have meant that time and effort would have needed to be spent by the appellant's agent, and that should not have been necessary. The application for costs mentions a sum of money, but that is not a matter for me, but is initially for the parties to try to agree.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Tendring District Council shall pay to Mrs Karen Cooke the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in seeking to understand and respond to the schedule of conditions that the council put forward; such costs to be assessed in the Senior Courts Costs Office if not agreed.

Terrence Kemmann-Lane

INSPECTOR