



Costs Decision

Site visit made on 12 December 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Costs application in relation to Appeal Ref: APP/C1570/W/22/3290492 Yew Tree Farm House, Tilekiln Green, Great Hallingbury, Bishops Stortford Essex CM22 7TQ

- 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 Flying Trade Group for a full award of costs against Uttlesford District Council.
 - The appeal was against the refusal of permission in principle for a development described as Permission in principle is sought to develop land for five dwellings.
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Decision

1. The application for costs is refused.

Reasons

2. Paragraph 16-028-20140306 of the Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Paragraph 16-049-20140306 of the PPG states that examples of unreasonable behaviour include preventing development that should clearly be permitted, vague, generalised, or inaccurate assertions about a proposal's impact unsupported by any objective analysis, or, not reviewing a case following the lodging of an appeal.
3. The appellant is of the view the Council has failed to produce evidence to substantiate its reasons for refusal and it should have reviewed its case promptly following the lodging of this appeal. The appellant suggests the former is indicative the Council does not consider its position defensible against the appellant's case.
4. The Council chosen to rely upon the reasons for refusal in its decision notice and the reasoning in the officer delegated report accompanying the Appeal Questionnaire. It is not unreasonable for a Council to choose not to add to its case, if in-light of the appellant's submission, it feels its position and reasons for the decision are still justified.
5. Based upon the evidence before me, I have disagreed with the Council's views in respect of certain matters, such as the weight to be attributed to certain policies of the Uttlesford Local Plan (2005). However, notwithstanding this and having regard to the substantive evidence before me, I have found the Council's reasons for refusing permission and reasoning set out in its delegated

report to be, on the whole, justified and reasonable. The appellant has not provided substantive evidence that leads me to conclude the Council should not have made the decision it did for the reasons set out. Therefore, the Council has not behaved unreasonably in coming to the conclusions it ultimately reached, or in not submitting further substantive evidence to supplement its case.

6. The Council's rebuttal to the costs application includes substantive evidence in respect of the planning merits of the proposal. This is outside the time limits for providing substantive case evidence to respond to the appellant's statement of case. However, while this is unreasonable behaviour, the Council's submission largely duplicates the reasoning set out in its delegated report and the appellant has not felt it necessary to provide a substantive rebuttal to the substantive planning points raised. Therefore, I see no reason it has incurred unnecessary or wasted expense in the appeal process as a result of this.

Conclusion

7. Unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated.

Dan Szymanski

INSPECTOR