



Costs Decision

Site visit made on 4 April 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Costs application in relation to Appeal Ref: APP/D3505/W/22/3299871 Former Telephone Exchange, Raydon Road, Wenham Magna CO7 6QE

- 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 & Mrs Coe for a full award of costs against Babergh District Council.
 - The appeal was against the refusal of planning permission for the conversion of two former telephone exchange buildings into a one bedroom dwelling.
-

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 application relies on the fact that the Council failed to have regard to Policy CS17 of the Babergh Local Plan 2011-2031 Core Strategy & Policies, adopted 2014¹ (CS) and paragraphs 79 and 80 of the National Planning Policy Framework ('the Framework') and therefore the application should have been approved. Additionally, the Council did not provide an appeal statement to provide further evidence in respect of its stance.
4. The Council's officer report assesses the proposed development against the planning policies they consider are relevant to the consideration of the planning application. Policy CS17 of the CS and paragraph 80 of the Framework are not included. It is not a requirement of the Council in their officer report to explain why they are not considering a proposal against, in their view, irrelevant policies. Furthermore, from the information before me, no supporting statement was submitted with the planning application detailing the appellants' view that CS Policy CS17 and paragraph 80 of the Framework were relevant to the proposal.
5. In reference to paragraph 79 of the Framework, the Council's officer report has regard to it and clearly explains how its aims can be met through CS Policy CR19. While the Framework does not require the re-use of a redundant or disused building to a dwelling to involve a building of architectural or historic

¹ Babergh Local Plan 2011-2031 Core Strategy & Policies (Part 1 of New Babergh Local Plan) February 2014

merit, CS Policy CR19 provides the local criteria for the assessment of these types of development and is therefore not inconsistent with it.

6. I assessed the proposal against CS Policy CS17 and paragraph 80 of the Framework as these policies were raised by the appellants in their appeal statement and therefore had to be addressed as part of the appeal decision. Their inclusion in the appeal decision does not suggest that the Council should have considered these policies in the determination of the planning application.
7. Furthermore, the Council were reasonable in not assessing the application against these policies, as following consideration of the application on its merits alone, I have concurred with the Council that paragraph 80 of the Framework is not applicable to the proposal and that a detailed consideration of the proposal against CS Policy CS17 was not required as I had already found that it would not comply with CS Policy CS15. Accordingly, the Council's failure to consider the planning application against these policies was inconsequential.
8. The submission of an appeal statement by the Council is not mandatory. It is for the Council to determine whether they wish to defend the appeal on the basis of the officer report alone. The submission of an appeal statement by the Council may have assisted the appellant in understanding why the Council did not assess the proposal against paragraph 80 of the Framework and CS Policy CS17. However, I have no substantive evidence that this in itself would have meant that the appeal was unnecessary and the costs associated with making the appeal were unfairly incurred by the appellant.

Conclusion

9. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Therefore, an award of costs would not be justified in this case.

A Berry

INSPECTOR