



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

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

Procedural Matter

2. An application for costs by the Council was accepted after the final deadline for comments as the application solely relates to the appellants' behaviour in applying for costs against the Council and was submitted as soon as practicable after the appellants' application for costs had been received. Both parties were given the opportunity to provide comments on this matter and therefore have not been prejudiced by the acceptance of the costs application.

Reasons

3. 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.
4. The application relies on the fact that the Council wasted unnecessary time and expense in responding to the appellants' costs application as they consider it obvious why they did not consider the proposal against paragraph 80 of the National Planning Policy Framework ('the Framework') and Policy CS17 of the Babergh Local Plan 2011-2031 Core Strategy & Policies, adopted 2014¹ (CS). Furthermore, the Council's officer report has regard to paragraph 79 of the Framework.
5. The appellants are entitled to submit a costs application against the Council if they consider the Council has acted unreasonably and caused them to incur unnecessary or wasted expense in the appeal process. Whether the proposal should have been considered against paragraph 80 of the Framework and CS

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

Policy CS17 are matters of judgement and therefore it is not unreasonable for the appellants to have come to a different view in this regard.

6. The Council's officer report has regard to paragraph 79 of the Framework and clearly explains how its aims can be met through CS Policy CR19. However, a response to the costs application would still have been necessary in respect of CS Policy CS17 and paragraph 80 of the Framework and therefore the Council has not demonstrated that they have been put to unnecessary or wasted expense in respect of defending this matter.

Conclusion

7. I therefore find that unreasonable behaviour by the appellants, 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