
Costs Decision

Site visit made on 9 May 2023

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

Costs application in relation to Appeal Ref: APP/J1535/W/22/3299091 Wayback, 179 Lambourne Road, Chigwell, IG7 6JU

- 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 Amarjeet Whaid for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing dwelling and erection of replacement dwelling and ancillary garden outbuilding.
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Decision

1. The application for a full award of costs is refused.

Reasons

The Applicants case.

2. In summary the claim for costs is made on the following grounds:
 - Development has been delayed when it should have been granted permission as the scheme is in accordance with the development plan
 - Inconsistencies in how the Council has determined similar cases including one allowed on appeal, and
 - Failure to produce evidence to substantiate its case.
3. The Council has acted unreasonably.

The Council's response

4. In summary the Council's response is:
 - Council Members are entitled to take a different view from their officers so long as a case could be made for a contrary view
 - The Reasons for refusal set out clearly the policies on which the decision was made.
5. The Council has not behaved unreasonably.

Conclusions

6. Planning Practice Guidance (the Guidance) advises that irrespective of the outcome of an appeal, costs may be only awarded against a party who has

behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

7. The application essentially relies on the fact that Council officers recommended that planning permission should be granted for the scheme, but that the Council Members took a different course of action without adequate reason to do so.
8. The Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
9. In this case I have noted the recommendation of the Council's officers to grant permission. However, the final decision is a matter of judgement. The Council Members in this case were entitled not to accept the professional view of officers so long as a case could be made for the contrary view.
10. The Council's statement relies on the reasons for refusal which in broad terms describe its objections to the scheme and include references to specific policies included in both the adopted and emerging local plans. I understand the concerns of the applicant on this matter but consider that however brief each reason is they are sufficiently clear in articulating the Council's objections. The appellant's statement has fully addressed each reason for refusal demonstrating that each was sufficiently clear and which in turn provided sufficient evidence to inform my decision to allow the appeal scheme.

Conclusions

11. The Members of the Committee were entitled to overcome the officer's recommendation. Despite the brevity of the Council's statement, I do not find that this amounts to unreasonable behaviour. Nor do I find that unnecessary and wasted expense as described in the Guidance has been incurred by the applicant in this instance.

Stephen Wilkinson

INSPECTOR