



Costs Decision

Site visit made on 2 August 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2023

Costs application in relation to appeal ref: APP/C1570/W/22/3298597 Land behind The Street Barn, The Street, Great Hallingbury, Essex CM22 7TR

- 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 William Howard Ward for a partial award of costs against Uttlesford District Council.
 - The appeal was against the refusal of planning permission for development of a single dwelling on the site of a disused manège.
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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 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 applicant considers that unnecessary costs have been incurred due to the failure of the Council to communicate with their agent during the consultation period, the failure to acknowledge a document that was submitted prior to the decision notice being issued because they 'were going to refuse it anyway' and that no opportunities were provided to discuss this, or to consider withdrawing the application.
4. The PPG is clear that behaviour and actions at the time of the planning application can be taken into account in the consideration of whether or not costs should be awarded¹. There is no statutory duty to engage in discussions during the application process or accept subsequent information. The Council's officer report demonstrates a reasonable exercise of planning judgement and given the previous refusal on the site; a refusal of the application would not be completely unexpected.
5. Notwithstanding that paragraph 38 of the National Planning Policy Framework (the Framework) is phrased around securing development that will improve the conditions of an area, it clearly expects Councils to work in a positive and proactive manner. There is no reason why a constructive manner of working should not extend to when applications are being refused. While subsequent paragraphs of the Framework promote pre-application engagement, it is not clear to me how pre-application advice would provide useful advice as to when

¹ Appeals Paragraph: 033 Reference ID: 16-033-20140306 Revision date: 06 03 2014

an application should be withdrawn. However, I am mindful that many Councils are facing resource issues at the present time, and that there is a balance to be struck between addressing issues and seeking to determine applications in a timely fashion. As such, while the Council could have behaved in a more customer focused manner, I find that their behaviour falls short of being unreasonable.

6. The applicant also considers that the Council behaved unreasonably in determining the application against out of date policies which do not align with the Framework. The starting point for making any planning decision is the development plan, regardless of its age. While the Council should have ideally set out how it conducted its assessment against paragraph 11d of the Framework in a more obvious manner, the policies of the Framework were taken into account when they reached their decision. The officer report, while brief in places, was sufficient to demonstrate a reasonable exercise of planning judgement. I therefore find there was no unreasonable behaviour in this regard.

Conclusion

7. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not therefore justified.

J Downs

INSPECTOR