The Planning Inspectorate

Costs Decision

Site visit made on 5 September 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Costs application in relation to Appeal Ref: APP/A1530/W/22/3311568
Land north of Lower Road, Layer Breton, Essex CO2 0PX

- 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 Colchester City Council for a full award of costs against Mr and Mrs Richard and Rebecca Long.
- The appeal was against the refusal of planning permission for the development proposed for the erection of an open-sided agricultural storage building. Resubmission of 220006 with design revisions.

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. Paragraph 053 of the PPG indicates that an appellant is at risk of an award of costs being made against them if the appeal had no reasonable prospect of succeeding, noting this may occur where the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site. The Council considers that the applicant acted unreasonably by pursuing the appeal in light of a recent appeal decision[1] for a similar proposal which was dismissed.

4. There are clear similarities between the appeal proposal and the previous appeal decision which proposed an agricultural building of equal dimensions and sited in the same location. However, the proposal differs through the submitted evidence which demonstrates that the proposal would have a neutral effect on highway safety and efficiency, relative to the existing established use.

5. On this basis, I have allowed the appeal and it is therefore not the case that the appeal had no reasonable prospect of succeeding. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

E Dade

INSPECTOR

[1] APP/A1530/W/22/3297755