



Costs Decision

Site visit made on 26 September 2023

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2023

**Costs application in relation to Appeal Ref: APP/C1570/W/23/3315940
Land adjacent Taylor's Service Centre, 1-3 Chelmsford Road Industrial
Estate, Great Dunmow, Essex CM6 1XG**

- 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 Taylor's Service Centre for a full award of costs against Uttlesford District Council.
 - The appeal was against the refusal of planning permission for the change of use of highway land to showroom forecourt.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 PPG indicates that an award of costs may be appropriate where the local planning authority has made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. In its assessment of the planning application, the Council did not substantiate or explain its reason for refusal. The analysis in the Officers Report comprised a "copy and paste" reproduction of the appellant's statement and views of the Highway Authority with negligible further consideration.
4. Reference was made in the Council's decision to policy GEN8 which relates to vehicle parking. It should have been obvious from the plans that this policy could not be applicable as the site was too small in width to accommodate a vehicle. The Council subsequently compounded these issues in its statement by highlighting new points of objection, relating to water run-off and maintenance, that were not raised during its consideration of the planning application. It further cited Policy DM1 of the Essex County Development Management Policies Document 2011. It did not substantiate or explain its earlier stated reasons for refusal.
5. Setting aside the merits of the case; it was clear from the original submission that the planning application was, in effect, no more than a mechanism to overcome a regulatory process by another body. In this case the Department for Transport. Nevertheless, the Council attempted to duplicate, or indeed override, the functions of this other regulatory body.

6. It is apparent that, overall, the Council failed to adequately consider or assess the planning application, it failed to substantiate the reasons for refusal, provided new, and misguided, evidence at the appeal and attempted to duplicate the functions of another regulatory body. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Uttlesford District Council shall pay to Taylor's Service Centre, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to Uttlesford District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Nick Bowden

INSPECTOR