



Costs Decision

Site visit made on 5 October 2023

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2023

Costs application in relation to Appeal Ref: APP/A1530/W/22/3309973 17 Station Road, Tiptree CO5 0AZ

- 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 Borough Council for a full award of costs against Mr and Mrs Barker.
- The appeal was against the refusal of planning permission for a two bed dwelling.

Decision

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

Reasons

2. The applicant's costs application was made later than the specified timescales. However, it presents in part as a response to elements within the appellants' costs application, and therefore would not have been able to address these points earlier. As such, I have used my discretion to accept it as properly made in these circumstances.
3. 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. The applicant contends that the appeal was unnecessary, because the PPG identifies that costs may be awarded if it had no reasonable prospect of succeeding, if a very similar development to one recently dismissed on appeal without an intervening material change in circumstances.
4. A 2 bedroom dwelling on the site was dismissed on appeal in September 2021¹. Although a new Local Plan has since been adopted, the appellants have not relied upon this change in their evidence, as the relevant adopted policies are broadly similar to those at the time of the previous dismissal.
5. However, although the proposal before me is very similar to that dismissed, some changes have been made, including amendments to the red line and the proposed parking layout. Importantly, the appellants have provided additional information in support, including on matters for which the previous Inspector did not set out a definitive conclusion, and including other material considerations such as a fallback position.
6. Moreover, although the parking provision is now lower than that previously identified as appropriate, justification was provided. This included the suggestion of overall betterment, and the accessibility of the site by sustainable transport. Although overall I found the proposal to be unacceptable, including

¹ APP/A1530/W/21/3267165

due to this parking deficiency, I do not find the appellants' justification so lacking that the layout had no reasonable prospect of succeeding.

7. The Council also suggests that the appeal could not succeed as the appellants do not own or have rights to access all of the necessary land to undertake the proposed development. I found this to be a civil matter, including as I was unconvinced that there would be no prospects at all that the proposal could be achieved, in line with the PPG advice on conditions. As such, it was therefore not unreasonable for the appellants to present the proposal as submitted.
8. Finally, the previous Inspector confirmed that the manoeuvring arrangements within Firs Road were unsatisfactory and would cause risk to its other users. However, the appellants have provided sufficient explanation as to why they consider such arrangements to be satisfactory or better than the fallback, based on the width of the road, and the reduction in the frontage parking.
9. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred, and an award of costs is not warranted.

L N Hughes

INSPECTOR