



Costs Decision

Hearing Held on 31 October 2023

Site visit made on 31 October 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2023

Costs application in relation to Appeal Ref: APP/Z1510/W/23/3315236 Land Opposite 1 to 4 Jenkins Farm Cottages, Kings Lane, Stisted, Essex CM77 8AF

- 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 Braintree District Council for a partial award of costs against Mr and Mrs Hasler.
 - The appeal was against the refusal of planning permission for erection of a 2 bedroom single-storey Agricultural Workers Dwelling.
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Decision

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

Preliminary Matter

2. The Council's initial application was for a full award of costs. However, it was agreed at the Hearing that the Council did not consider that the appeal in respect of the issues of character and appearance and living conditions was unreasonable. The Council confirmed that its claim was for partial costs to be awarded on procedural matters and in relation to the appellant's case regarding the first reason for refusal.

Reasons

3. The Planning Practice Guidance 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.
4. The first ground of the Council's claim relates to the nature of the proposal and a lack of evidence regarding whether the proposal meets the relevant policy tests. This particularly stems from the reference to the proposal relating to an 'agricultural workers dwelling'. I am also mindful that the appellants have accepted that the proposal does not fully comply with Policy LPP38 of the Local Plan in respect of rural workers dwellings in the countryside.
5. However, although I have also concluded that the appeal does not comply with development plan policy, this issue is not as clear-cut as suggested by the Council. The proposal does include some elements which could be construed as relating to rural or agricultural activity, such as the keeping and breeding of livestock for sale. The appellants have also had a long-standing interest in the site for the keeping of animals and reference has been made to registration as

a smallholder. The matter of the occupation of the dwelling on an unrestricted basis would also have been considered in respect of an occupancy condition, notwithstanding the description of the proposal. For those reasons, and due to the Council's housing land supply and the issues drawn in as part of the wider planning balance, I do not consider that it is unreasonable for the appellants to progress this appeal.

6. The second ground for the claim for costs relates to the submission of a Statement of Common Ground (SoCG). The appellants were requested to submit a draft SoCG in a letter from the Inspectorate dated 15 March 2023, and the SoCG was submitted to the Inspectorate's Validation Officer in advance of the given deadline. Although the Council was not copied into this, I note that the Inspectorate's letter did not ask the appellants to do this.
7. A draft SoCG was submitted in accordance with the timescale given in the Pre-Hearing Note. However, it was not possible for the parties to agree on a completed and signed version. Although it is preferable for a completed version to be provided, it is not inherently unreasonable for either party to refuse to sign a SoCG if they have concerns about its contents. I have had regard to the correspondence leading up to the Hearing provided by the appellants, and I do not consider that their concerns are so without foundation or that they had been so uncommunicative as to represent unreasonable behaviour.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not therefore justified.

David Cross

INSPECTOR