



Costs Decision

Hearing held on 5 March 2024

Site visit made on 5 March 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 April 2024

Costs application in relation to Appeal Ref: APP/Z1510/W/23/3326410 Land North of Catley Cross, Long Gardens, Twinstead, Essex

- 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 & Mrs Gilbert for a full award of costs against Braintree District Council.
 - The Hearing was in connection with an appeal against the refusal of the Council to grant planning permission for the siting of 1No. one-storey, 3-bedroom temporary dwelling, along with stable block, hay/machinery building, manège and hardstanding driveway.
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Decision

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

The submission for Mr & Mrs Gilbert

2. An application for costs was made in writing prior to the Hearing. The basis of the applicants' cost claim is two-fold. In relation to the procedural handling of the case, the applicants are aggrieved that they were not given the opportunity to respond to the report by rural consultant Andrew Coombe, which they consider contained factual inaccuracies, before the Council issued its decision. With regard to the substance of the matter under appeal the applicants consider that the Council made a number of inappropriate and unreasonable conclusions in its officer report, that has led to an unnecessary appeal.

The Response by Braintree District Council

3. The Council's response was submitted in writing in advance of the Hearing. It considers that Andrew Coombe was employed to act on behalf of the Council, and it was legitimately able to determine the application on the basis of the information put to it. The Council contends that further correspondence between the applicants and Andrew Coombe would not have overcome its concerns with the proposal.

Reasons

4. 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.
 5. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the procedural handling of the case, and the substance of the matter under appeal.
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6. The applicants advise that concerns regarding Andrew Coombe's report were raised with the Council in emails dated 20 and 21 April 2023. These emails are not before me. Nevertheless, the correspondence quoted from the Council in the applicants' cost application appears to indicate that the applicants disagreed with the consultant's findings, as well as reference to factual errors within the report. At the Hearing the applicants orally accepted that the factual errors within the Andrew Coombs report had been addressed by the subsequent Bourne Rural report, which formed part of the Council's statement of case for the appeal.
7. During the discussions, the Council consistently stated that there was insufficient information regarding particular aspects of the applicants' proposal. Positive engagement by the Council regarding the perceived inadequacies and the applicants concerns in relation to Andrew Coombe's report may have provided good customer service. However, the Council is entitled to determine proposals on the basis of the information submitted to it. Moreover, the rural consultant was employed to act on its behalf. Thus, there was no obligation for the Council to revisit the contents of the report, nor to allow the applicants to contact Andrew Coombe directly.
8. The Council's reason for refusal is clearly articulated within its decision notice. The Council's officer report, statement of case and oral representations convey wider concerns regarding the essential need for the proposed dwelling and the financial viability of the proposed enterprise. In my decision I have found that the Council had reasonable concerns in these regards.
9. Clearly there is a difference of opinion between the parties in respect of the planning merits of the proposal. This does not mean that the Council's concerns particularly those set out within its officer report, were inappropriate or unreasonable. Even if the Council and Andrew Coombe had accepted that the calculation in respect of the minimum wage for a rural worker was incorrect, the evidence before me indicates that the Council would have refused the application anyway. An appeal is therefore likely to have followed regardless.

Conclusion

10. I acknowledge the applicants' evident frustration with their perception of the Council's approach. However, insofar as is relevant to this costs application, based on all of the evidence before me, I find that no action or inaction taken by the Council amounts to unreasonable behaviour as described in the PPG, directly resulting in unnecessary or wasted expense at appeal. Therefore, an award of costs is not justified.

M Clowes

INSPECTOR