



Costs Decision

Inquiry held on 5 and 6 March 2024

Site visit made on 6 March 2024

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09th May 2024

Costs application in relation to

Appeal A Ref: APP/X1545/C/23/3326403

Appeal B Ref: APP/X1545/C/23/3326404

Land North West Of Riversleigh, Nipsells Chase, Mayland, Essex CM3 6EJ

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Susan Paton and Mr Kenneth Paton for a full award of costs against Maldon District Council.
 - The inquiry was in connection with an appeal against an enforcement notice alleging unauthorised erection of a C3 residential dwelling house.
-

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 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 applicants consider the Council have behaved unreasonably by issuing and serving the enforcement notice with its misconceived alleged breach of planning control; failing to assess matters and withdrawing the notice; failing to assess the buildings facilities on 29 June 2023 and requiring the removal of the appeal building on the false premise that it was obliged to require its removal.
4. As can be seen in my Decision, I have found that the appeals on grounds (b), (f) and (g) have failed and therefore I have dismissed the appeals and upheld the enforcement notice. The Council provided evidence to substantiate their position in terms of issuing the enforcement notice including in relation to the breach and requirements of the notice. Whilst the Council may not have assessed the building facilities on 29 June 2023, evidence was provided in relation to the breach occurring by the date of issue of the notice. The Council have not behaved unreasonably by serving the notice or how they have conducted themselves at the appeal stage.
5. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Chris Baxter

INSPECTOR