
Costs Decision

Site visit made on 21 May 2024

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th June 2024

Costs application in relation to Appeal Ref: APP/M1595/W/24/3338569 Land adjoining Tamarisk Road, South Ockendon, 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 Jadebright Ltd for a full award of costs against Thurrock Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of five new buildings comprising 38 residential apartments (Use Class C3) with car parking, cycle parking, new primary and secondary vehicular accesses, soft and hard landscaping including amenity space and associated works.
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Decision

1. The application for a full award of costs is allowed.

Reasons

2. The national Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own expenses in appeals and that costs may only be awarded against a party who has acted unreasonably and thereby caused the party who is applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The planning application was originally reported to the relevant Committee of the Council in July 2023. The officers' recommendation was that the application should be granted planning permission, subject to a number of conditions. In relation to the matters ultimately raised in the reasons for refusal, the report states that the design and appearance of the proposal would fit in and be of benefit to the area, that there would be no adverse effect on highway safety and that expert evidence demonstrates that the scheme could not viably support any affordable housing (or contribution in lieu thereof).
4. Although the Committee resolved to refuse the application, the decision was deferred pending a further report from officers in relation to the matters of concern raised by the Committee. This was then reported to the August Committee with a similarly supportive report. The minutes of the meeting state that the Principal Officer advised the committee that the suggested reasons for refusal would be difficult to support at appeal. Notwithstanding, the application was refused.
5. Once the appeal had been made by the appellant, the Council undertook a review of its case and it resolved that it would not defend any of the reasons for refusal. An agreed Statement of Common Ground (SoCG) was submitted

which confirmed that the Council considered the scheme to be wholly acceptable and in full accord with the development plan.

6. It is clear to me, and the Council agrees, that any proper analysis of the proposal would have resulted in planning permission being granted. The Council has withdrawn its reasons for refusal, a matter specifically identified in the PPG as representing unreasonable behaviour. Similarly, it has sought to prevent and has delayed development which should have been allowed and has not supported its reasons with any evidence.
7. The appellant should not have had to endure the expense and time involved in making the appeal. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 Thurrock Borough Council shall pay to Jadebright Ltd, 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.
9. The applicant is now invited to submit to Thurrock Borough 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.

T Wood

INSPECTOR