



Costs Decision

Site visit made on 25 October 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2024

Costs application in relation to Appeal Ref: APP/H/1515/W/24/3337230 Highmead Court, Sawyers Hall Lane, Brentwood, Essex CM15 9DB

- 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 CM Highmead Limited for a full award of costs against Brentwood Borough Council.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for 'a single-storey roof extension to Highmead Court to provide six flats of which four are two bed and two are one bed homes, additional parking, cycle parking and refuse'.
-

Decision

1. The application for costs is refused.

Procedural Matter

2. The application for costs has been made in relation to the above planning appeal, and also relates to another planning appeal at nearby Burgess Court¹. As these appeals have been subject to separate appeal decisions, in the interests of clarity and simplicity, their costs applications are also considered separately.

Reasons

3. 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.
4. The applicant considers that the Council behaved unreasonably in its determination of the application for prior approval, firstly, through the application of the development plan and, secondly, through using text in its assessment which had been used in assessing a different application elsewhere.
5. The Council's officer report acknowledges that the GPDO does not require regard to be had to the development plan. It acknowledges, however, that it has had regard to those policies only insofar as they are a material consideration relevant to the matters under consideration. As I have acknowledged in the appeal decision, I have no objection to that approach and the development plan is capable of being a consideration to some degree. This

¹ APP/H1515/W/24/3340222

is consistent with the view of another Inspector as evidenced by the Council and does not create conflict with the cited case law².

6. In any event, the Council's assessment did not refer to any particular development plan policy and it is not apparent that the Council relied on any particular conflict with it in its refusal. While the Council do not refer to specific sections of the Framework either, the issues it identified did align with the matters contained within the Framework. For these reasons, it is not apparent that the Council's approach was incorrect, or that the appeal would have been avoided even if the references to the development plan had been removed.
7. The Council accept that it used wording in the officer report which was taken from another application at Wingrave Court. However, the Council states that it considered the circumstances to be similar. While I have limited detail of the context of Wingrave Court, I see no reason why this text could not also be applied to the assessment of the prior approval at Highmead Court. Despite the re-use of that text, the officer report otherwise acknowledges the context of the site and the officer's assessment as a whole clearly relates to this site not any other. Even if the Wingrave Court text had not been used, it is not apparent that the Council's decision would have been different, or the appeal avoided.
8. In conclusion, for the reasons set out, unreasonable behaviour resulting in wasted or unnecessary expense in the appeal process has not been demonstrated. Accordingly, the application for costs is refused.

C Shearing

INSPECTOR

² Cab Housing Ltd & Ors v Secretary of State for Levelling Up, Housing and Communities & Ors [2022] EWHC 208 (Admin)