



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: 08 November 2024

Costs application in relation to Appeal Ref: APP/H1515/W/24/3340222 Burgess Court, Burland Road, Brentwood, Essex, CM15 9BL

- 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 Burgess 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 Burgess Court to provide eight flats of which two are two bed and six are one bed homes, additional parking, cycle parking and refuse.
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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 Highmead 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. It considers that this occurred firstly through the Council's 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 in so far as they are a material consideration relevant to the matters under consideration. As I have acknowledged in the appeal decision, while that is the case, the development plan is also capable of being a consideration to some degree. This is consistent with the view of another Inspector as evidenced by the Council and does not

¹ APP/H1515/W/24/337230

create conflict with the cited case law². The Council list development plan policies in its report but also refers to the Framework.

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. Specific sections of the Framework were also not referred to, however the issues raised did align with those in 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 officers report which was taken from another application at Wingrave Court, where it considered the circumstances to be similar. I see no reason why this text could not also be applied to the assessment of the Burgess Court application and despite the re-use of that text, the officer report acknowledges the context of the site and clearly relates to Burgess Court rather than any other site. It is not apparent that even if the Wingrave Court text had not been used, that the Council's decision would have been different or the appeal avoided altogether.
8. In conclusion, for the reasons set out, unreasonable behaviour resulting in wasted or unnecessary expense in the appeal process has not been demonstrated. The application for costs is therefore refused.

C Shearing

INSPECTOR

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