



Costs Decision

Site visit made on 12 November 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Costs application in relation to Appeal Ref: APP/P1560/W/24/3340451 Foundry Yard, Hall Lane, Walton on the Naze CO14 8HW

- 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 Fuller Enterprises (Graeme & Marcia Fuller) for a full award of costs against Tendring District Council.
 - The appeal was against the refusal of planning permission for the redevelopment of a vacant commercial site with 3 x two bed houses and 9 x two bed apartments.
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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 (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.
3. On substantive grounds, the applicant contends that the Council have failed to have proper regard to well established planning principles in the determination of the application, resulting in an unnecessary appeal with unjustified costs incurred.
4. I have come to the same conclusions as the Council, with regard to the effect on employment land and the non-designated heritage asset, and the appeal has been dismissed in accordance with the development plan and the National Planning Policy Framework. Therefore, the Council have not behaved unreasonably in coming to their decision having sought to substantiate the planning reasons given for the refusal of the planning application against the relevant policies within the development plan and the Framework.
5. It is not for the Council to provide evidence as to why the appeal site should not be redeveloped for purposes other than commercial but for the applicant to evidence why the proposed development accords with the development plan or its benefits would outweigh any conflict with it. Therefore, this does not constitute unreasonable behaviour.
6. Furthermore, along with the consultation response from the Council's Built Heritage Team, the council have sufficiently demonstrated that the building is a non-designated heritage asset in accordance with guidance from Historic

England. As outlined within the decision for the appeal proposal, the appeal decision¹ cited by the applicant is not relevant to the appeal before me.

7. It is noted that I have come to a different conclusion regarding financial obligations in relation to community facilities. Nevertheless, due to the other main issues, the appeal, and the cost in relation to it, would have still been necessary. Overall, I am not persuaded that the Council has acted unreasonably by preventing development that should have been permitted.
8. Therefore, whilst I note the costs incurred by the appellant, I find that it has not been demonstrated that these have resulted from unreasonable behaviour on behalf of the Council as described in the Planning Practice Guidance. For this reason, an award for costs is not justified.

Conclusion

9. For the reasons given above and having had regard to all other matters raised, an award of costs is refused.

E Grierson

INSPECTOR

¹ APP/P1560/W/20/3265745