



Costs Decision

Site visit made on 21 January 2025

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th February 2025

Costs application in relation to Appeal Ref: APP/B1550/W/24/3345982

Land opposite 1-10 Disraeli Road, Rayleigh SS6 8XP

- 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 Rochford District Council for a full award of costs against Mr and Mrs Steve Mitchell.
 - The appeal was against the refusal of planning permission to convert existing building into a live/work unit.
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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 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 Council considers the appellant has exhibited unreasonable behaviour with respect to the substance of the matter under appeal. It argues the proposed development is clearly contrary to the development plan and the National Planning Policy Framework (the Framework) and that the grounds of appeal are so brief that the appellant's case has not been substantiated. It further states the appellant was given notice of the Council's intention to seek costs and advised to withdraw the appeal but chose not to do so.
4. In addition to their appeal statement, the appellants submitted the original application's Design and Access Statement (DAS) with the appeal. The DAS sets out arguments in support of the proposal, including two ways in which it could be considered as an exception to inappropriate development in the Green Belt under the tests in the Framework. In its decision report, the Council primarily addressed the exception relating to reuse of a building of substantial and permanent construction, which is also found in development plan policy DM13. However, the Council's decision report said little directly in response to the suggested exception for previously developed land. Consequently, the Council did not fully and clearly explain in its report how it found the proposal to be contrary to the Framework.
5. Given the emphasis of the decision report, it was reasonable for the appellants to focus on the first of the suggested exceptions in their appeal statement. This was supported with evidence, albeit brief. Further, by submitting the DAS with the

appeal, the appellants also brought to my attention the other arguments they had originally made in support of the application.

6. I considered the appellants' arguments in the DAS as well as the appeal statement. I was not persuaded by them and dismissed the appeal for the reasons set out in my appeal decision. Nevertheless, despite this difference in judgement, I find the appellants acted reasonably in exercising their right to appeal and in their general approach to supporting documents and evidence. Moreover, I find they were reasonable not to be deterred by the Council's threat of an application for costs.
7. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Carpenter

INSPECTOR