



Costs Decision

Site visit made on 5 February 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2025

Costs application in relation to Appeal A Ref: APP/J1535/W/24/3342115

14 Tycehurst Hill, Loughton, Essex IG10 1BU

- 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 Mr Bala Balendra for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for development under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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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. A full award of costs is being sought on the basis that the Council acted unreasonably which caused unnecessary or wasted expense in submitting an appeal. This claim is made on the basis that the appellant considers that the reason for refusal is irrational and contradicts the purpose of Section 73/73A of the Act. Further reasons why they disagree with the Council's approach is set out in their Appeal Statement, which I have had regard to in reaching my decision.
4. In response the Council states that they disagree with the claims being made by the appellant and that they advised the appellant prior to submission of the application that a full planning application for a replacement dwelling would be required. Nonetheless, the Council state that they considered the application submitted within the confines of the relevant legislation and decided within the statutory time period. The Council refused the application, with reasons. The Council states that the reason for refusal is complete, precise, specific, and relevant to the application. On this basis, the Council consider that they did not act unreasonably in refusing the application and therefore no unnecessary or wasted expense has been occurred.
5. The Council has provided evidence containing a sequence of email exchanges between the Council and the Appellant, in which the Council clearly states the type of application it expects to be submitted. It is clear that from these exchanges there is a difference of opinion between the two parties and that it was the intention of the

appellant to apply under S73A of the Act, despite the Council's views on whether this was the correct type of application. This difference of opinion amounts to a matter of planning judgement and in such circumstances where findings differ it is often likely that an appeal would be necessary. Furthermore, as can be seen from my appeal decision, I have reached similar conclusions to the Council in respect of the works falling outside of the scope of S73A. On this basis, I find that the Council did not act unreasonably and gave clear reasons for refusal.

6. Having had the application refused, the applicant exercised his right of appeal. This therefore does not indicate unreasonable behaviour. On the contrary, it is entirely reasonable to expect the appellant, in exercising their right of appeal in this case, to meet their own expenses, as indeed is the expectation in most planning appeals.

Conclusion

7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Lancaster

INSPECTOR