Costs Decision

Site visit made on 7 March 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2025

Costs application in relation to Appeal Ref: APP/W1525/W/24/3355306
Oaktree Farm, Burnham Road, Rettendon, Essex SS11 7QS

- 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 D Regan for a partial award of costs against Chelmsford City Council.
- The appeal was against the refusal of the Council to grant planning permission for demolition of existing dwelling, commercial building and three ancillary storage structures. Erection of replacement dwelling and single additional new dwelling with associated amenity space, tree planting, parking, EV charging points and landscaping.

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. The applicant's appeal statement, received November 2024, argued that the proposed development was not inappropriate development in the Green Belt, as it had the support of paragraph 154(g) of the National Planning Policy Framework (the Framework). A revised version of the Framework was then published, and the paragraph altered. It had supported development that would not cause substantial harm to the openness of the Green Belt. It now supports that which does not have a greater impact on the it.

4. The Council's statement was supplied after the revisions to the Framework. It said that, given new paragraph 155, it no longer thought the development was inappropriate.

5. The Council supplied an addendum to its statement in February 2025, in which it stated that, following an amendment to the Framework, the development did not have the support of paragraph 155, and was inappropriate. This addendum was unsolicited but, upon receipt, was shared with the applicant, who provided a response.

6. The applicant's position is (firstly) that the change in the Council's position necessitated further submissions on his part, incurring cost and, (secondly) that the Council failed to substantiate its case in that it did not address the revisions to Framework paragraph 154(g).

7. On the first point, in March 2025 I invited comments from both parties as to the implications of the revision to the Framework. I considered the replies, and any comments on the subject made beforehand, in my determination of the appeal. These included the submissions made by the applicant in response to the Council's addendum. I see no reason to view any expense incurred in their production as unnecessary or wasted, therefore.

8. On the second point, whilst the Council did not explicitly address the effects of the changes to paragraph 154(g), it nevertheless provided its view on how the proposed development would affect openness, which is the key consideration therein. I do not consider that it failed to substantiate its case, therefore. I have found the proposed development would not cause substantial harm to the openness of the Green Belt, but that does not mean that, in relying on its original submission, the Council failed to make a case that it did.

9. Moreover, I do not see what unnecessary or wasted expense the applicant has incurred in this regard; his appeal made the case that paragraph 154(g) was applicable. That work predated the Council's statement and the revisions to the Framework, and so would have been undertaken regardless.

Conclusion

10. Unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A Knight

INSPECTOR