

Costs Decision

Site visit made on 20 December 2016

By Mr Kim Bennett BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3rd January 2017

Costs application in relation to Appeal Ref: APP/X1545/D/16/3159389 Land at Little Foxes, Summerhill, Althorne CM3 6BY

- 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 & Mrs East for a full award of costs against Maldon District Council.
 - The appeal was against the refusal of planning permission for a two storey rear extension, internal remodelling and insertion of obscured windows to existing first floor side elevations.
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Decision

1. The application for an award of costs is refused.

Reasons

2. 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 appellant considers that the officers' Committee report demonstrated that there was compliance with Development Plan policies and yet the reasons for refusal refute that. It is further alleged that the application was only called in to Committee because of the neighbour's position on the Council and that there could have been undue influence on the Planning Committee in reaching its decision as a result.
4. With regard to the decision by Committee contrary to officer advice, as the Council points out, members are not bound to accept advice from their professional officers, but where they depart from such advice, any reasons for refusal need to be clear and precise in identifying the demonstrable harm that the development would cause. In that respect, it is clear from the Committee minutes of the meeting of 15 August 2016, that the issue was debated at length, with views of officers being sought during the debate, prior to reaching the decision. In my view, that decision clearly indicated the nature of concern that the Council had, namely the impact upon the living conditions of the occupiers of the neighbouring residential property, The Tree House. It was clearly articulated and made proper reference to the Committee's concern and conflict with the appropriate Development Plan policies. The fact that members gave greater weight to the issue of loss of light than officers did, is not an example of unreasonable behaviour, and in any event, in a separate decision, I have arrived at a similar finding.

5. With regard to alleged undue influence because of relationship of one of the occupiers of The Tree House to the Council, I note from the Committee minutes that the person concerned declared a pecuniary interest at the outset and left the chamber for the item when it was discussed as is entirely appropriate in such circumstances. I also note that the letters of objection received from The Tree House were not in the name of the person who has a position on the Council. There are a variety of reasons for applications to be called in for determination by Committee, rather than being determined under delegated powers, and I find nothing unusual or unreasonable in that regard. There is no other evidence before me to suggest any other impropriety and in any event that would be a matter for the appellant to take up with the Council direct, rather than being the subject of an award of costs.
6. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Kim Bennett

INSPECTOR