



Costs Decision

Site visit made on 17 September 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2019

Costs application in relation to Appeal Ref: APP/X1545/W/19/3230624 1A Alamein Road, Burnham-on-Crouch CM0 8JH

- 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 Richard Summers for a full award of costs against Maldon District Council.
 - The appeal was against the refusal of planning permission for the erection of a dwelling house.
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Decision

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

Reasons

2. 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. The PPG advises that local authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of this include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
3. The applicant states that there is no reason that the application should have been refused and that as a result, unnecessary time and expense has been incurred. There are two reasons for refusal, the first of which relates to the effect of the proposal on the character and appearance of the area. The second reason for refusal is set out in two parts: that the dwelling is not served by sufficient vehicle parking and amenity space provision. The reasons for refusal are precise, specific and relevant to the application and are supported by analysis within the officer report. Further evidence is provided within the Council's Statement of Case submitted alongside the appeal.
4. The applicant asserts that the Council provided no evidence that land levels have been raised. However, the Council has provided a series of photographs within its Statement of Case to support its position on this matter. Although I have agreed with the appellant in respect of the effect of the appeal scheme on the character and appearance of the area, the Council was not unreasonable in taking a different view. Similarly, although I have agreed with the appellant in respect of outdoor amenity provision, the Council's view was based upon advice

contained within guidance and was therefore not unreasonable in taking a different view.

5. Although the Highway Authority did not object to the appeal scheme, the Council is not obliged to follow advice provided by statutory consultees. Indeed, the Council has supported its departure from the advice from the Highway Authority by reference to local guidance. Whilst I have found that there would be no harm arising from the development in respect of highway safety, the Council was therefore not unreasonable in coming to its view.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

M Savage

INSPECTOR