
Costs Decision

Site visit made on 28 October 2019

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 19 November 2019

**Costs application in relation to Appeal Ref: APP/X1545/Q/19/3231222
The Walnuts, 61 Broad Street Green Road, Great Totham, Maldon, Essex
CM9 8NX**

- 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 Mrs M Houlding for a full award of costs against Maldon District Council.
 - The appeal was against the refusal to discharge a planning obligation.
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Decision

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

Reasons

2. The national Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own costs in relation to appeals and costs may only 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. In order to determine whether the obligations still serve a useful purpose in planning, I consider that it was entirely reasonable that the Council should consider the contents of its adopted Local Development Plan. In addition, the fact that the Council indicates that they can demonstrate a supply of housing sites in excess of 5 years would have an influence of the weight that they may wish to attach to its policies and also to any benefits that may arise from the proposed discharge of the obligation.
4. In relation to the development boundaries, these are relevant in that the application of the Council's relevant policies depend to an extent on whether a site is within a settlement boundary or not. Whilst I have disagreed in my main decision with the Council's position in relation to the policies, I do not consider, as a matter of principle, that the Council has been unreasonable in this respect. With regard to Policy H4, the appeal site may reasonably be considered to contain backland or infill development; the application of those relevant criteria (or importantly the first one) are relevant. Again, I have disagreed with the Council in relation to what effects the proposal would in this respect but I find nothing unreasonable in seeking to apply the requirements of this policy here.

5. In relation to the effects of the proposal on housing land supply, the annex appears to be occupied as a separate dwelling at present and so this would remain unaltered by the proposal and so I find this largely irrelevant. The fact that the Council have attached only very limited weight to this matter is not unreasonable.
6. The Council has rightly sought to address all 3 obligations within paragraphs 4(i) to (iii) of the Agreement and I find this to be perfectly acceptable. I have taken account of the permission granted on land immediately adjacent to the appeal site but this was granted at a time when the Council could not demonstrate a suitable supply of housing land and the planning balance would have been different. I have also had regard to the other points put forward by the appellant including those relating to other planning permissions granted in the area. Having assessed these other matters I find that they do not indicate to me that the Council has acted unreasonably in relation to this application which seeks to discharge planning obligations.
7. As a consequence, I conclude that the Council's actions have not been unreasonable. Therefore, the conditions necessary for an award of costs have not been satisfied.

S T Wood

INSPECTOR