
Costs Decision

Site visit made on 18 November 2019

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 9 December 2019

Costs application in relation to Appeal Ref: APP/X1545/W/19/3232900 Sunnyside, Grange Avenue, Mayland, Chelmsford CM3 6BG

- 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 Maldon District Council for a full award of costs against Mr and Mrs Johnson.
 - The appeal was against the refusal of planning permission for demolition of an existing barn and replacement with an annexe.
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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. The weight to be attributed to the submitted Unilateral Undertaking is, to a degree, up to the Council when making its decision. Similarly, the personal circumstance of an applicant are capable of being taken into account. It is not unreasonable of the appellant to put these matters forward as part of their case and not unusual for differing amounts of weight to be attributed to them. The appellant has not been unreasonable in suggesting that the Council has given insufficient weight to some matters.
4. The assessments in relation to the size of the existing building and the one proposed vary in their conclusions. I find nothing unreasonable in the appellant coming to a different conclusion that the Council. Although I have agreed with the Council in this respect in my main decision, the difference of opinion which lies at the centre of this issue, does not reflect unreasonable behaviour.
5. The appellant indicates that the passage of time, a different Local Plan, a new NPPF and the personal circumstances are considerations which may lead to a different conclusion. Again, although I have not agreed with the appellants in relation to the overall conclusion of the appeal, such matters need to be taken into account in determining applications/appeals and there is nothing unreasonable in suggesting that they may contribute to a different conclusion being reached.

6. In relation to the lawful use of the land, the appellant does not seem to deny the conclusions reached in the previous appeals. However, the appellant states that the land is not used for agricultural purposes and does not form part of an agricultural holding. In turn, these appear to be matters not disputed by the Council. I do not consider that the appellants have acted unreasonably in this respect and have sought to set out matters which they feel may influence a decision.
7. Reference by the appellant to the re-use of a building is not factually accurate as the proposal would be for the demolition of it and construction of a new building. It seems that the appellant refers to this due to the fact that the existing building is unused. I don't consider that the Council have been involved in any wasted time in clarifying its own position. Any repetition in the Council doing so has been unnecessary.
8. Much of what is alleged in the claim and its defence is reflective of differences of opinion on weight to be attached to material planning considerations and interpretation. None of which is considered as unreasonable in this case.
9. As a consequence, I conclude that the appellants' actions have not been unreasonable. Therefore, the conditions necessary for an award of costs have not been satisfied.

S T Wood

INSPECTOR