The Planning Inspectorate

Costs Decision

Site visit made on 10 November 2020

by Jonathon Parsons MSc BSc(Hons) DipTP Cert (Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2020

Costs application in relation to Appeal Ref: APP/X1545/W/20/3248895
Gracedale Farm, Maldon Road, Bradwell-On-Sea CM10 7HU

- 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 Morgan for a full award of costs against Maldon District Council.
- The appeal was against the refusal of planning permission for hardstanding.

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. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Although not an exhaustive list, examples, include the failure to produce evidence to substantiate a reason for refusal and not reviewing their case promptly following the lodging of an appeal against refusal of planning permission.

4. In its reason for refusal, the Council refers to conflict with LDP Policy S8 which states that permission will only be granted where the intrinsic character and beauty of the countryside would not be adversely impacted upon, provided it is for a development listed within the policy, such as agriculture or rural diversification, recreation and tourism. Given the plan-led planning system, the matter of whether this development relates to any of the listed developments within the policy has to be considered.

5. Although the appeal has been allowed, this does not demonstrate unreasonable behaviour. The Council has raised the issue of the development being part of an animal sanctuary and whether the horses are an agricultural use, referring to site circumstances and legal judgements. This is reasonable given the Maldon District Local Development Plan (LDP) Policy S8 requirements and on the basis of evidence submitted, the main decision supports the Council's policy position in this respect. Additionally, the Council's reference to the animal sanctuary was made in its officer's report and the applicant chose to rebuke in

its planning appeal statement. Therefore, this issue should not have come as a surprise to applicant for all these reasons.

6. The appeal was allowed and in respect of the principle of the development, the conflict with LDP Policy S8 was found not to be overriding and the impact on character and appearance was found not to be adverse. Although this conclusion differs from the Council, this does not demonstrate unreasonable behaviour. Assessments on these matters involve judgement and inevitably, some subjectivity. The Council has supported its arguments on the urbanising impact of the development by detailing the hardstanding's size, its size relative to existing buildings, its position and grassland loss. Accordingly, it has provided objective analysis to substantiate its reason for refusal in a professional manner.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Jonathon

INSPECTOR