



Costs Decision

Site visit made on 13 May 2021

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 28th May 2021

Costs application in relation to APP/X1545/W/20/3255117 Old House Farm, Braxted Road, Kelvedon, Essex CO5 9BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The application is made by Mrs Hazel Frod for a full award of costs against Maldon District Council.
 - The appeal was against the refusal of a proposal described as the conversion on a barn/ agricultural storage building to a dwelling.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 PPG makes it clear that the costs regime encourages all those involved in the appeal to behave in a reasonable way and to follow good practice in the presentation of full and detailed evidence to support their case. It indicates that unreasonable behaviour can include the prevention of development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations.
4. I have found that, in this case the local planning authority (LPA) has failed to properly interpret the requirements of Article 3, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As a consequence, the appellant has been faced with unnecessary delay and the expense of lodging the appeal.
5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that an award of full costs is justified.

Costs Order

6. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that

Maldon District Council shall pay to Mrs Hazel Frood, the costs of the appeal proceedings described in the heading of this decision.

7. The applicant is now invited to submit to Maldon District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, an application for a detailed assessment by the Senior Court Costs Office would need to be made.

Steven Hartley

INSPECTOR