
Costs Decision

Site visit made on 14 June 2021

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2021

Costs application in relation to Appeal Ref: APP/X1545/D/20/3259168 8 The Cobbins, Burnham-On-Crouch CM0 8QL

- 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 and Mrs Lambert for a full award of costs against Maldon District Council.
 - The appeal was against the refusal of planning permission for development described as 'proposed part single, part 2 storey side/rear extensions. Including roof alterations to proposed attached garage with planning approval ref HOUSE/MAL/19/01092'.
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Decision

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

Reasons

2. 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 process¹.
3. I appreciate that the applicants are aggrieved by the Council's procedural handling of the appeal application at application stage, including the circumstances by which it was determined; also, by the Council's decision on the proposed development, including in the context of other development at the appeal site granted permission by the Council² and alleged cumulative impact. However, having made the decision that it did, the application is for a full award of costs and is, essentially, that the appeal was unnecessary because the Council's judgement on the substantive planning merits of the appeal application was 'extreme' and it should instead have granted planning permission. The Council has been provided with an opportunity to comment on the application.
4. PPG states that 'where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs'³.
5. I have acknowledged in my appeal decision that the appeal site is not within any 'sensitive' area that has been referred to by the applicants. However, the absence of harm in those regards does not mean the absence of any 'design' harm having regard to other material considerations, including in this suburban

¹ PPG paragraph ID: 16-030-20140306

² Council's Ref HOUSE/MAL/19/01092

³ PPG paragraph ID: 16-050-20140306

residential area. Moreover, the Council has included 'design' objections in its reasons for refusal.

6. The 'street scene' is referred to by the Council in its reasons for refusal and, on the evidence before me, in the officer report and the Council conducted a site visit. There is no substantive evidence before me to suggest that the Council has not 'assessed' the streetscene, as the applicants claim. Moreover, the 'extent' of the public streetscene, and the effect of the development on it, are matters of planning judgement.
7. The effect of the development on 'residential amenity', as the applicants have referred to this matter in the appeal (for example, 'the amenity of any neighbouring property', 'impact on neighbouring properties including their gardens' and 'neighbouring occupiers in private views'), and as is usually understood for planning purposes, relates to the living conditions of existing or future occupiers of residential buildings. The effect of development on the public streetscene, including in terms of its design and visual impact, is a separate and discrete material consideration. Consequently, the Council's finding of absence of harm with regard to living conditions, or 'residential amenity', is not the same thing and does not mean de facto that there is absence of material planning harm to the public streetscene.
8. I consider that the Council was entitled to make the planning judgements that it did. These were informed by a site visit, relevant planning history and the professional judgement and recommendation of its Planning Officer. It will be evident from my appeal decision that I do not find the Council's judgement to have been 'extreme'. In addition, its reasons for refusal are clear and precise, include reference to relevant development plan policies and relate to matters of acknowledged planning interest. The Council did not therefore prevent development that the applicants consider should 'clearly'⁴ have been permitted. These circumstances have led to the applicants reasonably having to pursue the matter through the appeal process and parties in planning appeals normally meet their own expenses⁵.

Conclusion

9. For the reasons given above, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense in the appeal process, as described in PPG, has not been demonstrated and that a full award of costs is not justified, nor is a partial award for the same reasons.

Robin Buchanan

INSPECTOR

⁴ PPG paragraph ID: 16-049-20140306

⁵ PPG paragraph ID: 16-028-20140306