



Costs Decision

Site visit made on 8 June 2021

by Graham Wyatt BA (Hons) MRTPI

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

Decision date: 5th July 2021

Costs application in relation to Appeal Ref: APP/X1545/W/20/3265939 Glen Loy, Latchingdon Road, Cold Norton, Essex CM3 6HR

- 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 Edward Law for a partial award of costs against Maldon District Council.
 - The appeal was against the refusal of planning permission for full planning application for the subdivision of a single bungalow into two dwellings.
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Decision

1. An award of costs is refused.

Reasons

2. The Planning Practice Guidance (the Guidance) is clear that costs may only be awarded against a party who has acted unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The Guidance further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally, the Guidance is clear that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. Paragraph 3 of the National Planning Policy Framework (the Framework) makes it clear that the document should be read as a whole. Furthermore, the Framework states that the circumstances listed at paragraph 79 refers to isolated homes in the countryside and thus, it is not relevant to the proposed development.
4. Although Policy S8 of the Maldon District Council Local Development Plan 2017 (the Local Plan) is silent on the matter of the sub-division of dwellings within the countryside, there is no requirement for the Local Plan to repeat all of the Framework. Furthermore, notwithstanding paragraph 213 of the Framework, Policy S8 provides a wide range of scenarios whereby development in the countryside would be considered acceptable. This is fully consistent with the Framework in recognising the intrinsic character and beauty of the countryside, and that opportunities to promote walking, cycling and public transport are pursued.
5. Moreover, there is nothing before me to demonstrate that the Council would not consider the sub-division of a dwelling within the countryside. In this instance, it was the lack of available public transport options and access to

services and facilities, and the effect of the development on the character and appearance of the area that was of concern.

6. A previous Inspector considering appeal APP/X1545/W/18/3207877 found that part of the site would be suitable for two dwellings because of its accessibility to the “*many services*” and everyday range of local facilities and modes of transport. However, based upon the evidence that was submitted, I found that, on balance, the site is within a suitable location for the development in terms of its access to the limited services, amenities and public transport options within Cold Norton. Therefore, whether a site is acceptable having regard to its location in relation to services and facilities is a matter for the decision maker based upon planning judgement and the evidence before them.
7. With regard to the effect of the development on the character and appearance of the area, it is evident from paragraph 5.3 to 5.3.11 of the officer’s delegated report (ODR) that this was a matter for consideration. Although the ODR states that the minor alterations to create the two dwellings would not have a detrimental impact on the character and appearance of the area, paragraph 5.3.11 is quite clear that as a result of the increase residential activity and domestic paraphernalia associated with the proposed development, this would urbanise the site, erode the semi-rural character of the area and be in conflict with the Local Plan.
8. Thus, whilst the ODR does not contain the second reason for refusal, it is clear that the effect of the development on the character and appearance of the area was a matter before the Council and one which the applicant had the opportunity to consider as part of his written statement.

Conclusion

9. I therefore find that on the matters identified above, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that an award of costs is unjustified.

Graham Wyatt

INSPECTOR