



Costs Decision

Site visit made on 10 August 2021

by A.Graham BA(hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 September 2021

Cost application in relation to Appeal Ref: APP/X1545/D/21/3269686 98 Washington Road, Maldon, Essex CM9 6AR

- The application is made under the Town and County Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Karen Wiseman for a full award of costs against Maldon District Council.
 - The appeal was against the refusal of planning permission for amendments to appeal granted APP/X1545/D/16/3164272: Single storey front extension to garage and porch. Omit 2nd storey front and rear aspect windows. Flat roof dormer to rear. rooflights. S73A application for side aspect gable window to 2nd storey bedroom. Form hip to gable roof to the existing single storey rear extension. Alteration of ridge height to western side gable projection.
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Decision

1. The application for a full award of costs is allowed and full costs are awarded.

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 planning process. Such reasons include persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
3. In this case the appellant is aggrieved due to the alleged lack of full consideration given by Members of the Maldon Central Planning Committee in their meeting of 2 December 2020 and the perceived failure of the members to take into account the previous decision of the Secretary of State regarding the approved permission for this site that was allowed on appeal under reference number APP/X1545/D/16/3164272.
4. The Local Planning Authority (LPA) have stated that although Members of the Planning Committee are bound by the same legislative duty as Planning Officers, they state that members were fully aware of the previous decisions and have a remit to overturn Officer recommendation should they wish.
5. In assessing this award of costs I am aware of the valuable role that members of Planning Committees make in being representatives of their constituent's, many of whom may be affected by such planning applications. However, in this case I consider that some of the main issues being debated by Members of the

Planning Committee had seemingly already been very well addressed by a previous Inspector assigned by the Secretary of State. These included the number of windows, raised roof height, perceived 'imbalance in the streetscene' of the proposal, overlooking and the parking provisions upon the site.

6. From the evidence before me I can see that Members undertook a long debate with regards the specifics of this case. However, I consider that the majority of the issues raised above; heights, imbalance in the streetscene, overlooking and parking for instance, had been fully addressed by the previous Inspector. For the debate to discuss these issues again seems to me to be reopening many of these issues that were previously determined. Despite this the minutes of the meeting do not record any advice from officers as to the implications of undertaking such a course of action and I would consider such advice should have been prudent in order to ensure the debate focussed upon the scheme at hand.
7. The reason for refusal ultimately refers to 'unresolved design features' and 'unbalanced architectural features' without giving any tangible or objective evidence to support these remarks or explain what the intention or opinion of Members were in deciding this course of action. The minutes simply record a number of 'design flaws' with no specifics given as to what precisely these flaws were.
8. As such I must conclude that the Council failed to undertake an objective assessment of the proposal based on the actual harm caused by this specific scheme. As a result I consider the reasons for refusal assessing the proposal's impact are vague, generalised and, potentially, inaccurate as they appear to me to have been partially at least based upon a debate that was concerned with the previous determined application.
9. Such matters may have been cleared up through a Committee site visit to the appeal property and although I have evidence within the Council's minutes that this was suggested, there is no evidence before me of how this was resolved in the meeting or why such a visit was not undertaken.
10. Persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable can constitute unreasonable behaviour. I consider that through opening the debate once again and through focussing on many of the aspects previously addressed that the actions of Members resulted in an unreasonable dealing with this case and contrived reasons for refusal that were largely based upon the concerns of objectors, many of whom raised issues more related to the previous scheme than this one. Ultimately this course of action cost the applicant in the time and expertise needed in order to submit the subsequent appeal and costs application.

Costs Award

11. In exercise of the 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 Mrs Karen Wiseman the costs of the appeal proceedings described in the heading of this decision.

12. 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.

A Graham

INSPECTOR