



Costs Decision

Site visit made on 18 October 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 November 2021

Costs application in relation to Appeal Ref: APP/X1545/W/20/3260927 Land at Harmony Kennels, Spar Lane, Purleigh CM3 6QW

- 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 J Lawrence for a full award of costs against Maldon District Council.
 - The appeal was against the refusal of planning permission for Redevelopment of Kennels and Stables for One Detached Dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Awards can be based on either procedural or substantive matters.
3. It is the Appellant's case that, having regard to the first and second reasons for refusal, the Council have failed to suitably articulate why the appeal site is materially different to sites in close proximity that have recently had permission for new dwellings allowed at appeal. It is also suggested that the third reason for refusal was unnecessary due to a legal agreement being submitted during the lifetime of the planning application. Finally, with regard to ecological considerations, the appellant contests that had an Extension of Time been granted when requested, the fourth refusal reason would not have been necessary.
4. As identified in my main decision, despite the evidence provided by the appellant, I have found in favour of the Council regarding the first two refusal reasons. For the reasons provided, I am satisfied that the appeal site is materially different to the nearby sites that benefit from recent appeal decisions. It therefore follows that I find that the Council have not demonstrated unreasonable behaviour regarding these matters.
5. Within the evidence before me, the Council have confirmed that the submitted Unilateral Undertaking (UU) would overcome the relevant refusal reason. On this basis, they have not sought to defend this matter. I acknowledge the appellant's view that common ground should always be pursued, and that other Councils may take a different approach. However, the planning application was refused on an 'in principle' matter. As a consequence, the UU would not have

changed the decision of the Council. Accordingly, although it may have been helpful to agree its content, in not reviewing the UU, the Council has not altered the course of the development or the need for an appeal. On this basis, I find that the Council's approach, whilst not necessarily positive and proactive, was a reasonable approach to take.

6. Regarding ecological matters, although I have found that the proposal would likely be acceptable in this regard, the Council was not obliged to accept the Preliminary Ecological Assessment. This would not have directly affected the decision made by the Council and therefore, not agreeing to an extension of time enabled a decision to be made within the prescribed time period.
7. I acknowledge the frustrations presented by the appellant in relation to the decision and the manner in which it was arrived at, but based on the evidence before me, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Martin Chandler

INSPECTOR