
Costs Decision

Site visit made on 22 August 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th August 2022

Costs application in relation to Appeal Ref: APP/X1545/Y/21/3276920 144 High Street, Maldon, Essex CM9 5BX

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Southend & District Building Preservation Trust [East] Ltd in association with Bellhouse Investments Ltd for a full award of costs against Maldon District Council.
 - The appeal was against the refusal of listed building consent for remove brick pier/pillar to east boundary wall.
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application for a full award of costs is on the basis that the Council acted unreasonably as the decision taken by the Council's Central Area Planning Committee was contrary to the advice of its officers and the reason for refusal is unsubstantiated.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised, or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
6. The Council provided a Statement of Case to defend its decision and clearly set out why it considered the proposed works would be harmful. In my decision, it is evident that I considered that the Council's reasons for refusal stand up to scrutiny. However, I arrived at a different conclusion regarding the structural properties of the brick pier and ultimately allowed the appeal after undertaking the heritage balance required by the development plan and national policies.

Nevertheless, I am satisfied that the Council acted reasonably in refusing the appeal proposal and that it was able to substantiate its reasons for refusal.

7. Consequently, I cannot agree that the Council has acted unreasonably in this case. As such, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

Paul Thompson

INSPECTOR