
Costs Decision

Site visit made on 14 September 2022

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022.

Costs application in relation to Appeal Ref: APP/X1545/D/22/3300031 Oxley House, D'arcy Road, Tiptree, COLCHESTER, CO5 0RT

- 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 Charlie Roch for a full award of costs against Maldon District Council.
 - The appeal was against the refusal of an application for part two, part single storey extension to rear of house.
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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. Unreasonable behaviour may be either procedural or substantive, but paragraph 033 of the PPG makes clear that although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
3. The appellant advises that three planning applications at the site have been determined without a planning officer entering the site, and viewing solely from the public highway. The appellant considers that this has prevented the scheme being properly considered within the setting of the house and its grounds.
4. Notwithstanding that the appeal has been successful, the Council's assessment of the application was supported by a reasoned analysis set out in its officer's report. The visual impact of a development on its surroundings is a subjective matter and as such opinion can vary. Having visited the site as part of this appeal, it was evident that an assessment of the impact on the wider area could be made without entering the appeal site, and the photographs of the dwelling and its immediate setting that were submitted as part of the application would have given a level of detail to inform the Council's overall assessment. Given the reasons on which the Council based its decision, I am not convinced that a different conclusion would have been reached had a planning officer viewed the development from within the site.
5. Moreover, at the time that the planning application was determined in May 2022, the Council did not have the benefit of the appeal decision for the single-

storey annexe which was allowed the following month. As such, this could not have informed its decision-making.

6. I note the appellant's view that expense was incurred in changing architects between applications, but it is not evident on the information supplied that this decision was as a result of the actions of the Council. Whilst it may not have avoided the need for subsequent planning applications, it does not appear that the appellant exercised a right of appeal against the refusal in November 2021 for a 'single storey rear annexe extension and first floor rear extension' (HOUSE/MAL/21/00772), but opted to submit two further planning applications instead.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated, and the application is refused.

H Lock

INSPECTOR