
Costs Decision

Site visit made on 31 August 2016

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 20 September 2016

Costs application in relation to Appeal Ref: APP/R0660/W/16/3152225 Land east of Rushcroft, Congleton Road, Sandbach CW11 4SP.

- 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 The Dale Land Trust for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for residential development comprising up to 7 dwellings.
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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. In this case it is clear that the Council's reason for refusing planning permission related to the impact of the proposal on the character of the landscape, which cited development plan policies to support that judgement.
 4. I agree with the Appellant that it is incumbent upon the local planning authority to support its case with evidence. Here, the elected Members took a decision contrary to Officer recommendation. That decision was based on their own assessment of the impact of the proposal.
 5. The impact of development on landscape character is largely a subjective exercise, though it is possible to seek to bring a degree of objectivity to decision making. To do so the existing character of the area should be identified, and the subsequent effects of development should be assessed in the context of the identified baseline character.
 6. The Council's appeal statement does identify what it regards as being important, for example the attractive break in the built up frontage, and the fact that the site is located on farmland. The statement also identifies the intrinsic character and beauty of the site, including the well maintained hedgerows. The statement further indicates that the proposal would thus be harmful to the existing character.
 7. It is fair to regard the Council's case as being light in the identification of the characteristics of the landscape, and in identifying the details of how the
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development would harm the character of the landscape. Nonetheless the Council made a decision which is based on its subjective judgement, and this was clearly iterated in the decision notice. Members are entitled to take a different view to their Officers, and it is clear to me on what grounds they did so. Whilst the reasoning in the appeal statement supporting the decision in landscape terms is not extensive, I do not consider that there is any difficulty in understanding the Council's concerns. Although limited I am satisfied, on balance, that the Council has produced just enough information to explain and substantiate its reason for refusing permission on landscape grounds, albeit that it is a judgement with which I disagree. I do not find unreasonable behaviour here.

8. The Council acknowledges that it cannot demonstrate a 5 year supply of deliverable housing sites, and has reached a judgement that, notwithstanding this fact, there would be significant and demonstrable harm as a result of this proposal. It takes a different view of the weight to be attached to development plan policy to the Appellant and me. I find the Council's approach to policy relating to settlement boundaries somewhat surprising given case law that has emerged since publication. But in any event the weight attaching to policy is all part and parcel of the balancing exercise which must be undertaken in making a judgement on any development. That balancing exercise would have been necessary in the appeal whatever weight the Council afforded to policy. There is nothing here to suggest that if the Council had afforded reduced weight to policy it would have reached any other decision. As a result it does not seem to me that in this case the Council's approach has led to any wasted expense.
9. In summary, the Council has provided enough information to justify its stance on matters relating to landscape impact. The apportionment of weight to policy in the subsequent balancing exercise would have been necessary in any event and I do not consider that the Council's approach has been shown to be unreasonable or led to wasted expense.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Philip Major

INSPECTOR