
Costs Decision

Site visit made on 13 September 2016

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 03 October 2016

Costs application in relation to Appeal Ref: APP/D2320/W/16/3152417 Land adjacent to 75 Towngate, Ecclestone Lancashire PR7 5QU

- 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 Sophie Turbfield, Westchurch Homes Ltd for a full award of costs against Chorley Borough Council.
 - The appeal was against the refusal of planning permission for the erection of seven residential dwellings with associated works.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. Paragraph 049 of the PPG sets out a series of examples of unreasonable behaviour by local planning authorities that might result in the award of costs. The applicant makes reference to two of these. Firstly that despite no objection from the Highway Authority and a recommendation of approval by Planning Officers, the application had been refused for vague, generalised or inaccurate assertions about the proposals impact unsupported by objective analysis. Secondly that planning permission was refused on highway grounds, matters capable of being dealt with by conditions which if imposed would have enabled the development to go ahead.
 4. The Council in determining an application must consider all the evidence put before them. Whilst having regard to the advice from the Highway Authority they must also give consideration to third party evidence. In this case such evidence was provided by a qualified and experienced highway engineer. The objection put forward was detailed, referred to guidance and the views therein were clearly explained. The Council's reason for refusal is clear, specific to the development and supported by reference to Manual for Streets, Inclusive Mobility and the National Planning Policy Framework. The Council's Statement of Case provides objective analysis and substantiates the reason for refusal. Accordingly I consider that the Council in making its judgment did not make unduly vague, generalised or inaccurate assertions.
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5. With regard the second example of unreasonable behaviour put forward by the applicant, the highway matters which led to the reason for refusal related to the restricted width of the footway, obstructions within it and the reduced left turn radii at the junction of Tincklers Lane. I note that in the addendum to the Committee report of 26 April 2016 there was discussion about alternative arrangements from The Hawthorns and the changed position of the Parish Council in this regard. However at the time the Committee considered the application, this alternative proposal and any others had not been put forward with any assessment of their feasibility or consideration of the requirement for land outside the control of the applicant. It was therefore uncertain whether these improvements could be achieved.
6. I note the applicant's reference to the possibility of widening the footpath on the northern side of Tincklers Lane, works within the adopted highway. This would however only have addressed the restricted footway, and again had not been the subject of objective analysis. I therefore consider that matters constituting the reason for refusal could not have been overcome by alternative schemes which could reasonably have been dealt with by the imposition of conditions.
7. Although, in allowing the appeal I have come to a different conclusion to the Council, I consider for the reasons set out above, that the Council has not relied on vague, generalised or inaccurate assertions about the proposals impact unsupported by objective analysis and secondly that it has not been demonstrated that suitable conditions would have enabled the proposed development to go ahead.
8. As a result I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for award of costs is refused.

Helen Hockenhull

INSPECTOR