
Costs Decision

Site visit made on 4 October 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 9th November 2016

Costs application in relation to Appeal Ref: APP/A0665/W/16/3154492 Land adjacent to The Pump House, Frog Lane, Handley, Milton Green, CH3 9DN

- 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 A Moore for a partial award of costs against Cheshire West & Chester Council.
 - The appeal was against the refusal of planning permission for six dwellings and associated works.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. The *Planning Practice Guide* (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals, and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process.
 3. The application for a partial award of costs is made in relation to the second reason for refusal on the impact of the proposed development on the character and appearance of the area. The applicant claims that the Council has failed to produce evidence to substantiate the reason for refusal, and has relied on vague and generalised assertions which are unsupported by any objective analysis. The PPG indicates that such circumstances may lead to an award of costs against a local planning authority.
 4. The Council's appeal statement is quite short but paragraph 4.1 highlights that this is because it considers its case has been adequately outlined in the Officer's Report. The reason for refusal clearly sets out how, and why, the Council considers the appeal scheme would have an adverse impact with respect to the character and appearance of the area, and indicates the policy within the development plan to which the Council considered the scheme would be contrary. Their conclusion in this regard is based on the premise that the site lies in the open countryside, and their reasoning for this, although brief, is set out within the Officer's Report.
 5. As detailed in my appeal decision, I have found that the proposal would be acceptable in terms of its impact on the character and appearance of the area. This too is largely based on my conclusion, which differs from that of the Council, that the site lies within the built-up envelope of the hamlet rather than
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in the open countryside. Notwithstanding this, I recognise that the consideration of this matter involved issues that are finely balanced, and are matters of judgement. Although in this case I have found against the Council, it does not mean that the Council has acted unreasonably in coming to a different conclusion.

6. I have been made aware of comments made during pre-application discussions regarding the potential impact on character and appearance of a previous application for a very similar development on the site. However, these represent the informal views of an Officer, not the formal decision of the Council, and so I am not persuaded that the Council has acted in an unreasonable manner.
7. In conclusion, I am satisfied that the Council has met its obligation to give proper consideration to the planning application. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus a partial award of costs is not justified.

Alison Partington

INSPECTOR