

Costs Decision

Site visit made on 13 October 2016

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 10th November 2016

**Costs application in relation to Appeal Ref: APP/Y2430/W/16/3150247
Land between Nos 12 and 23 Old Manor Gardens, Wymondham,
Leicestershire, LE14 2AN**

- 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 Andrew Girvan of Campbell Buchanan for a full award of costs against Melton Borough Council.
 - The appeal was against the refusal of planning permission for erection of a two storey, 2 bedroom detached dwelling, car parking, landscaping, fencing and associated works.
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Decision

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

Reasons

2. *Planning Practice Guidance* 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 appellant considers that the Council misapplied national policy in relation to the weight to be attributed to the harm the proposal would cause to heritage assets. I have also found that the harm to heritage assets would outweigh the public benefits of the scheme and so would conflict with guidance in the Framework. I have reached the same conclusion as the Council and I therefore find no error in the Council's application of national policy, which was clear from the committee report, where the Council took paragraph 134 of the Framework into account in weighing the public benefits of the scheme against the harm to heritage assets.
 4. In coming to a view I acknowledge that the Council was not explicit in setting out and attributing weight to all of the appellant's stated benefits of the scheme, including any economic benefits during construction and occupation, the potential to contribute to the restoration of stained glass windows and the designation of the private footpath as a public right of way. However, although these benefits were outlined briefly in correspondence with the Council late in the application process, they were not outlined in the information submitted with the application and were not substantiated in any great detail. Furthermore as I was unable to attribute weight to the last 2 matters, and attributed only limited weight to the first, I do not consider that these matters would have altered the Council's consideration of the application in any case. I therefore find that having regard to the information provided, the omission of
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these largely unsubstantiated benefits in the weighting of public benefits did not amount to unreasonable behaviour on the part of the Council.

5. The appellant also alleges that the Council failed to consider the use of conditions as a means of mitigating the impact of the proposal. I note that the Committee Report on P14 states "*Whilst permitted development rights can be removed to prevent outbuildings there would still be the requirement for outside drying areas and garden furniture that would need to be screened by tall close boarded fences*". It is therefore clear that the Council were thorough and fair in considering the use of conditions and did not act unreasonably in this regard.
6. The appellant also alleges that a lack of communication on the part of the Council during the application process amounted to a failure to act proactively, and refers in particular a failure to respond to an email sent by the appellant during the course of the application. It is clear to me from the correspondence provided that the Council were clear that they did not consider that any amendment to the proposal would make it acceptable. Therefore, whilst I appreciate that this may have caused the appellant some distress, in these circumstances further correspondence would not have altered the outcome of the proposal and as such, the Council did not act unreasonably.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in *Planning Practice Guidance*, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Anne Jordan

INSPECTOR