

Costs Decision

Site visit made on 17 October 2016

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 18 November 2016

**Costs application in relation to Appeal Ref: APP/M0655/W/16/3156295
Land to the rear of 364 Warrington Road, Culcheth, Cheshire WA3 5JH
fronting onto Fowley Common Lane.**

- 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 Ms Wendy Willett for a full award of costs against Warrington Borough Council.
 - The appeal was against the refusal of planning permission for erection of a single dwelling.
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Decision

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

Reasons

2. Planning Policy Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense or wasted expense in the appeal process.
 3. The appellant believes that the Council's reason for refusal is weak and contends that the Council's Members did not seek officer clarification as to whether or not the proposed access could be constructed as permitted development even though the appellant's agent raised this at the Committee Meeting. The Council therefore determined the application without prudence and due diligence which was unreasonable and has resulted in the unnecessary expense of this appeal.
 4. Paragraph 049 of the Planning Practice Guide states that examples of unreasonable behaviour by local planning authorities include vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; or preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
 5. I recognise the appellant's concern that the Council's Members did not properly consider whether or not the proposed access could be constructed as permitted development. However, the Member's were informed by the appellant's agent of this ascertainment prior to the determination of the application and they were therefore aware of a possible fallback position. Consequently, it is not possible
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to reasonably conclude that they did not take the possible fallback position into consideration.

6. However, it is clear that the Council's Members visited the site and were therefore fully aware of the individual circumstances of this site. Furthermore, they took the professional advice of the Council's Officer and Highway Engineer who did not support the application. The Council's reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the Warrington Local Plan Core Strategy that the proposal would be in conflict with, as well as citing conflict with the National Planning Policy Framework.
7. It will be seen from my decision that I did not agree with the Council; however the decision is a matter of judgement. I am satisfied, for the reasons given above, that the Council adequately substantiated its reason for refusal, took into account the development plan, national policy and material considerations, and were clear about the impact of the proposed development.
8. I therefore conclude unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated, and an award of costs is therefore not justified.

Elizabeth Pleasant

INSPECTOR