

---

## Costs Decision

Site visit made on 18 October 2016

**by Elizabeth Pleasant DipTP MRTPI**

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

**Decision date: 29 November 2016**

---

### **Costs application in relation to Appeal Ref: APP/R0660/W/16/3155854 Land adjacent to Highlands, Congleton Road, Alderley Edge, Cheshire East SK9 7AD**

- 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 & Mrs N McGuiness for a full award of costs against Cheshire East Council.
  - The appeal was against the refusal of planning permission for the construction of a one part two-storey, part three-storey detached infill dwelling with detached garage, new access and landscaping.
- 

### **Decision**

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

### **Reasons**

2. Planning Practice 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 in the appeal process.
3. The appellant submits that the Council has acted unreasonably in refusing the application which is clearly in accordance with national policy, established case law and previous appeal decisions. It is claimed that the refusal has resulted in the delaying of a development which should have clearly been permitted and the appellant has consequently had to incur unnecessary and wasted expense by having to go through the appeal process.
4. Paragraph 049 of Planning Practice Guidance indicates that local planning authorities will be at risk of an award of costs being made against them if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and acting contrary to, or not following, well-established case law.
5. In this case I have noted the recommendation of the Council's Officer and had regard to the Court of Appeal Judgement <sup>1</sup> and the appeal decisions which have been referred to me, and which relate to infill development in villages in the Green Belt within Macclesfield Borough.<sup>2</sup> However, as set out in the Court of

---

<sup>1</sup> Julian Wood v SSCLG, Gravesham Borough Council (2015) EWCA CIV 195

<sup>2</sup> APP/R0660/W/14/3000822 and APP/R0660/W/3144713

---

Appeal Judgement, whether or not the site lies within a village or not, and then whether or not the proposal comprises 'limited infill' is a matter of judgement. In the appeal decisions referred to in the footnote above, the Inspectors found those proposals not to be inappropriate development. However, those proposals related to sites in different locations to the appeal site and consequently their physical and locational characteristics are not directly comparable to this appeal case. The Council's Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made by them for the contrary view.

6. The reason for refusal set out in the Decision Notice is complete, precise, specific and relevant to the application. It also clearly cites conflict with paragraph 89 of the National Planning Policy Framework (the Framework) and states which policies contained within the Macclesfield Borough Local Plan (Local Plan) that the proposal would be in conflict with.
7. The Council did further support their reason for refusal with a statement which set out clearly why they did not consider the appeal site to be located within a village and why they believed the proposal would not represent limited infilling. Furthermore, it recognised that Policy GC1 of the Local Plan is not consistent with the Framework.
8. It will be seen by my decision that I did not agree with the Council's Decision, however I am satisfied, for the reasons set out above, that the Council has adequately substantiated its reason for refusal.
9. I therefore conclude unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated, and consequently an award of costs is not justified.

*Elizabeth Pleasant*

INSPECTOR