
Costs Decision

Site visit made on 21 February 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 14 March 2017

**Costs application in relation to Appeal Ref: APP/W4325/W/16/3164383
Land behind 1-6 Wellington Court, Wellington Road, Oxton, Wirral
CH43 2JT**

- 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 Stuart Sampson, Mrs Alison Sampson & Mrs Cynthia Sampson for a full award of costs against Wirral Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for demolition of 12no. lock-up garages and redevelopment of the site to provide 1no. dormer bungalow with two car parking spaces and landscaping.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes substantive matters such as 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. Other substantive matters include failure to produce evidence to substantiate a reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
 4. The application for costs relates to the substantive matters listed as examples above. The reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. The reason for refusal clearly identifies what the Council considers to be harmful and states the policies of the Unitary Development Plan for Wirral (UDP), the guidance in the Wirral Supplementary Planning Guidance on Backland Development (SPG) and the National Planning Policy Framework, to which the proposal would be in conflict. The Council's evidence includes an officer report and statement of case which seek to substantiate the reason for refusal.
 5. The Council's reason for refusal consists of two distinct elements, firstly with respect to whether the development would provide for a satisfactory living
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environment for future residents and secondly, the effect on the living conditions of neighbouring properties. It will be seen from my appeal decision, that I concluded that the proposed development would be harmful in terms of the first element of the reason for refusal. Consequently, it reasonably follows that the Council was not unreasonable in refusing planning permission and the expense incurred in pursuing the appeal cannot be considered to be wasted or unnecessary expense.

6. With respect to the second element of the reason for refusal, I found no harm relating to the effect on the living conditions of neighbouring properties. However, the conclusion reflects matters of judgement based on the particular circumstances of the site and its surroundings. Whilst the weight I attribute to the guidance in the SPG is considerably less than afforded by the Council in its decision, such matters are influenced by the extent of evidence before me in terms of process by which the SPG was prepared. Consequently, I cannot conclude that the Council behaved unreasonably or caused unnecessary or wasted expense in the appeal process as a result.
7. Additional concern was also expressed regarding an absence of engagement by the Council with the applicants before making the decision. However, based on the evidence before me it is apparent that the Council's reason for refusal related to matters whereby amendments or alternatively the imposition of conditions would not have overcome the identified conflict with Policies HS4 and HS10 of the UDP and the Framework. In such circumstances, the Council's approach to decision making without further discussions with the applicants was not unreasonable.
8. Taking all of the above into account, I conclude that it has not been demonstrated that the Council behaved unreasonably or caused unnecessary or wasted expense for the applicants in the appeal process as a result.

Conclusion

9. For the reasons given above, I determine that the costs application should fail and no award is made.

Gareth Wildgoose

INSPECTOR