
Costs Decision

Site visits made on 23 February and 11 March 2017

by Mark Dakeyne BA (Hons) MRTPI

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

Decision date: 22nd March 2017

Costs application in relation to Appeal Ref: APP/M0655/W/16/3164341 81A Grappenhall Road, Stockton Heath, Warrington WA4 2AR

- 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 Frazer Lloyd-Jones for a full award of costs against Warrington Borough Council.
 - The appeal was against the refusal of outline planning permission for residential development of up to 9 no. dwellings, including site access.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Government's Planning Practice Guidance advises that, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
 3. The appellant submitted the costs application in writing on 19 January 2017. The Council was given the opportunity to respond but did not do so.
 4. The first reason for refusal on highway grounds had two main elements – the width of the access road and the adequacy of visibility onto Grappenhall Road. The access width of 4.8m met recognised standards set out in national guidance such as Manual for Streets for a development of this scale in such a location. The Council acknowledged that the width also met its own guidance. Highway Officers were content with the design. No evidence was presented to indicate why such an arrangement was not appropriate for this particular site where the number of dwellings would not lead to significant movements of larger vehicles.
 5. In terms of visibility the suggestion that vehicles parked on the pavement restricting visibility was not supported by evidence. In contrast the appellant's position that such parking was not prevalent was substantiated by images and the observations of the Council's Highway Officer. The effect of pavement trees on visibility was not evidenced to any significant extent, particularly having regard to the appellant's points in this regard.
 6. In terms of the second reason for refusal the Council did not support its assertion that the proposal would represent an overdevelopment of the site by any analysis of densities in the area or by reference to unacceptable relationships that would ensue between existing and proposed dwellings.
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Although the application was in outline, the case that well-established interface distances and an appropriate density could be achieved through a development of 9 dwellings was not challenged by alternative substantive evidence.

7. The change in the character of the site, alterations to neighbouring residents' outlook and increased activity were not sufficient reasons in themselves for refusing planning permission. These amounted to generalised assertions not supported by objective analysis. The Council did not have sufficient regard to the existing characteristics of the site and its surroundings.
8. The previous appeal decision¹ was made over 11 years ago in a different policy context. That said most of the Inspector's comments in relation to living conditions and character and appearance remain relevant today. The Council persisted in objections that were not supported by the previous Inspector.
9. In conclusion the Council sought to prevent development which should have clearly been permitted, having regard to the development plan, national policy and other material considerations; failed to substantiate each reason for refusal; produced vague and generalised assertions about the proposal's impact; and persisted in objections to elements of the scheme which the previous Inspector had found acceptable.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Warrington Borough Council shall pay to Mr Frazer Lloyd-Jones, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Warrington Borough Council, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Mark Dakeyne

INSPECTOR

¹ Appeal Decision Ref: APP/M0655/W/16/3164341 dated 24 August 2005