
Costs Decision

Site visit made on 7 March 2017

by V Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 24th March 2017

Costs application in relation to Appeal Ref: APP/R0660/D/17/3168881 The Chase, Trouthall Lane, Plumley, Knutsford, WA16 9RZ

- 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 S Ashworth for a partial or full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for a first floor extension to provide a master bedroom suite.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. I shall therefore consider whether that has occurred in this case.
3. The applicant has referred to whether or not the Council interpreted the relevant local policy correctly when assessing the development proposed and that the Council attached undue weight to the said policy. I have set out in my appeal Decision that whilst the relevant 30% exception may have been engaged, it did not necessarily follow that there was no upper limit to the size of extensions that would be permitted and that such an approach would conflict with national policy set out in paragraph 89 of the National Planning Policy Framework (Framework). In any event, as I concluded in my Decision if the extension being constructed under Permitted Development rights (PD) is taken in to account the appeal proposal would result in an increase in floorspace far in excess of 30%. Therefore notwithstanding the previous appeal¹, the Council did not seek to apply this element of policy GC12 of the Macclesfield Borough Local Plan (2004).
4. In my Decision I found that policy GC12 does differ from the specific exception set out in paragraph 89 of the Framework. However, the general thrust of the policy does reflect that of the relevant national policy and for that reason I attached some weight to the local policy. In accordance with paragraph 215 of the Framework, the Council was therefore entitled to attach some weight to the policy in reaching their decision. Whilst previous Inspector's may have noted

¹ APP/R0660/D/16/3152865 Decision date: August 2016

that the policy was more restrictive than the Framework they still attached weight to the policy in their Decision.

5. As noted in my appeal Decision, whether or not a proposal would harm the character or appearance of an area is not a relevant Green Belt test set out in national policy and in accordance with paragraph 215 of the Framework the Council were correct not to attach weight to this element of the policy when assessing whether or not the proposal would be inappropriate development in the Green Belt.
6. As to whether or not the Council provided objective evidence to support their reason for refusal. The relevant policy test required a comparison of the size of the appeal proposal compared with that of the original building, taking account of the extension subsequently permitted on appeal and the PD extension. The officer's report includes a specific analysis of the various floorspace increases when compared with the original building and a percentage increase was also calculated so as to provide a further point of comparison. There is also additional text commentary where the officer went on to consider whether the proposal would be seen as disproportionate, in combination with the other extensions, when compared with the original building. On that basis, I therefore conclude that the Council did provide objective evidence to support their reason for refusal and demonstrated that the proposal would be contrary to policy.
7. Whether or not the proposal would comply with the relevant policies is a matter of planning judgement. The Council gave clear and precise reasons for reaching the decision that they came to, they reached a clear conclusion on the application and identified relevant policies from their Local Plan.
8. Accordingly, I conclude that unreasonable behaviour leading to wasted expense has not been demonstrated.
9. For the reasons given above, I refuse the application for an award of costs.

V Lucas-Gosnold

INSPECTOR