
Costs Decision

Site visit made on 27 April 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 19th May 2017

**Costs application in relation to Appeal Ref: APP/R0660/W/17/3167572
1 Orme Close, Prestbury, SK10 4JE**

- 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 and Mrs Bryant for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing house to be replaced with 2 new build detached dwellings.
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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 who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal.
 3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal.
 4. The applicants submit that the Council has acted unreasonably in failing to submit an appeal statement thereby failing to substantiate the reason for refusal.
 5. In this case, I have noted the recommendation of the Council's Officers. The decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view. I note the Council had sought an extension of time to submit their appeal statement which was not accepted by the Planning Inspectorate. However, the Council would have been well aware of the deadlines for submission from the start of the appeal process. Furthermore, the Council could not rely on information within their officer's report given that it was recommended for approval. Taking the above into account, I find that the Council acted unreasonably by failing to submit an appeal statement in order to substantiate their reason for refusal.
 6. I turn then to the matter of wasted expense. Notwithstanding the above, the reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. Whist the applicant's frustrations are
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understandable, no evidence has been submitted to suggest that the appellants' case would have been differently made had the Council submitted a statement. Moreover, as there was only one reason for refusal, expenses incurred by the appellants would have been incurred anyway in pursuing the appeal.

7. As a result, although I find that the Council has acted unreasonably in not substantiating the reason for refusal it has not caused unnecessary expense. Therefore no award is made.

Caroline Jones

INSPECTOR