The Planning Inspectorate

Costs Decision

Site visit made on 23 May 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 14 June 2017

Costs application in relation to Appeal Ref: APP/R0660/D/17/3173379
116 West Road, Congleton, Cheshire CW12 4EU

- 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 Kevin Brooker for a full award of costs against Cheshire East Council.
- The appeal was against the refusal of planning permission for a drop kerb for vehicle access.

Decision

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

Reasons

2. Planning Policy 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 or wasted expense in the appeal process.

3. The appellant considers that the Council has acted unreasonably by not taking into consideration correspondence submitted in support of the appeal and not engaging in an active dialogue with the appellant to enable matters of concern, which may have required further clarification, to be addressed. Reasonable consideration of the information would have enabled the Council to come to a different view and planning permission would have been granted. The appellant considers this to be unreasonable behaviour which has led to the unnecessary expense of an appeal.

4. Paragraph 049 of PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of this include, refusing to enter into pre-application discussion, or provide reasonable requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.

5. In this case there had been two previous refusals of planning permission for a vehicle access in this location. It is evident from those refusals that the Council had made it clear that their objection to the proposal, supported by the Highway Authority, related to the principle of a new direct access onto West Road in this location. This 'in principle' concern, was based on evidence relating to the volume of traffic on this classified road, and combined with the number of accidents recorded close by.

6. The Council has advised that they took into consideration the information set out in the appellant's email dated 18 January 2017 when they determined the application on the 31 January 2017. I have no substantive evidence before me that would suggest that this was not the case. The Council Officer's Report made it clear that the design of the proposed access in this case had been amended since previous refusals and that the application included supporting information which was rebutted by the Highway Officer.

7. The email does not request a response, and in view of the Council's 'in principle' objection to a new access in this location, it is difficult to see how a response to this correspondence would have enabled the appellant to address that concern. It will be seen by my decision that I agreed with the Council's decision. From the evidence I have before me, and for the reasons set out above, I am satisfied that it was not unreasonable for the Council to cease further dialogue with the appellant in respect of the application in this case, and to have continued to do so, would have been unlikely to have resulted in the appeal being avoided.

8. I therefore conclude unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated, and an award of costs is therefore not justified.

Elizabeth Pleasant

INSPECTOR