
Costs Decision

Site visit made on 16 May 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 6 July 2017

Costs application in relation to Appeal Ref: APP/R0660/W/17/3170349 6 Bunbury Lane and land to the rear, Bunbury, Cheshire.

- 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 Wulvern for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for the demolition of 1no.bungalow and the erection of 15 dwellings, including associated access at land to the east of Bunbury lane, Bunbury.
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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 submits that the Council has acted unreasonably in the way that it handled the application. In particular there were clear discrepancies in the way the Council dealt with directly comparable planning and technical matters between the application the subject of this appeal, and a separate planning application for the development of fifteen houses also within the village of Bunbury.¹ It is further submitted that the appellant's application had every opportunity to be positively determined, yet the Council's actions ultimately led to a refusal, and consequently significant and wasted costs of an appeal.
4. It is clear from the evidence submitted by the appellant that there were some significant delays by the Council in communicating the progress of their planning application and setting out matters of concern, particularly in relation to the provision of visibility splays for the proposed site access. Consequently, the Council considered it necessary to defer the determination of the application until such matters had been resolved.
5. I understand that these delays were frustrating for the appellant, and how it appeared to them that the advice given by Officers to Members of the Planning Committee was not consistent with the advice they gave in relation to how the proposed visibility splays could be secured for the proposed residential

¹ 15/5783N Proposed Residential Development, Land off Hill Close, Bunbury.

- development at Hill Close. However, despite the delay in doing so, the Council did provide an explanation for their actions in a letter of responding to the appellant's concerns.² I see no reason to disagree with their explanation.
6. Despite the delays, both applications were reported to the Planning Committee at the same meeting, and both were recommended for approval. It is clear from the respective Committee Reports that it was the professional officer's opinion that the two applications were not co-located and there was therefore no reason for the clearly separate applications to be considered together, nor for the individual merits of each application to be compared with the other. The two applications were not related and the order in which they were ultimately presented to the Committee would not seem to me to be unreasonable.
 7. I recognise the appellant's frustration, and I understand why they believe that the ultimate outcome of their application seems to be unreasonable in view of their decision to approve the development at Hill Close. However, the Council is not duty bound to follow the advice of its professional officers, provided if a different decision is reached they clearly demonstrate on planning grounds why the proposal is unacceptable.
 8. The reason for refusal set out in the decision notice is complete, precise and specific and relevant to the application. It also clearly states the policy of the Bunbury Neighbourhood Plan that the proposal would be in conflict with. Furthermore, the Council did further support their reason for a refusal with a statement setting out why they considered the proposal to be in conflict with development plan policy and guidance within the National Planning Policy Framework.
 9. It will be seen by my decision that I did not agree with the Council's decision. However, the decision is a matter of judgement, and I am satisfied for the reasons set out above, that the Council has adequately substantiated its reason for refusal.
 10. The length of time taken and poor communication with the appellant during the application process must have caused the appellant some concern; however I find nothing to suggest that a decision was not reached on the basis of the planning merits of the proposal. I also find no substantive evidence that the appellant has incurred any additional expense as a result of the delays incurred during the application process.
 11. 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

² Ref 16/0646N, response from Head of Planning, Cheshire East Council, dated 14 October 2017