

Costs Decision

Site visit made on 25 April 2017

by Mrs A Fairclough MA BSc(Hons) LLB(Hons) PGDip LP (Barrister) IHBC MRTPI

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

Decision date: 24 July 2017

Costs application in relation to Appeal Ref: APP/R0660/W/17/3167669 Land East of Whitchurch Road, Aston, Nantwich, 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 Cranford Estates for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for development of up to 24 dwellings with all matters reserved except access.
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Decision

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

Reasons

2. The 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 process.
 3. The appellant's submissions and the response by the Council have been made in writing. The appellant states that following the refusal of the planning application, a planning consultancy was commissioned to prepare a statement of case. This would not have been necessary if the Council had followed the advice of the Local Highway Authority, who had no objection to the scheme. Furthermore, the appellant considers that the Council failed to substantiate the reason for refusal with any evidence and therefore behaved unreasonably within the terms of the PPG. Therefore, the appellant seeks a full award of costs incurred in respect of the wasted expense in commissioning, preparing and submitting the appeal.
 4. The Council states that the planning application was determined in accordance with the development plan and any other relevant material considerations. The PPG indicates that parties in planning appeals normally meet their own expenses.
 5. I acknowledge that the refusal was contrary to officer recommendation. However, Members do not have to follow the professional advice of their officers. The impact on highway safety was the sole reason for the refusal.
 6. I note that the appellant states that the Members did not have any evidential basis to justify the refusal of planning permission on highway safety grounds. However, the Council explained in its' statement, which was submitted after
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the costs application was made by the appellant, that the members questioned the reasoning behind the view of the reporting officer on the basis of the site visit. The Council submitted evidence in the appeal statement to explain that it came to a different view than the reporting officer. The Council considered that the Design Manual for Roads and Bridges (DMRB) was the relevant standard based on measured vehicle speeds. Consequently, they considered that the proposal could not achieve the minimum visibility distance of 120m in DMRB. Furthermore, the Council considered that even if Manual for Streets was relevant the minimum visibility distance of 90m could not be achieved either.

7. The appellant contends that the decision was based on vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis. I disagree with the appellant and this is reflected in my decision. The decision by members may have been influenced by concerned local residents in terms of highway safety. This is a planning matter and the National Planning Policy Framework states that safe and suitable access to a site should be achieved for all people. This includes drivers exiting the appeal site. However, in the absence of relevant detailed technical data to enable me to consider the application of Manual for Streets 2, I have found that the proposed visibility distances would fall short of the standards within DMRB. Thus the approach by the members of the Council was reasonable in this case.
8. I note the appellant states that the Local Highway Authority reviewed the Appellant's technical assessment and came to the conclusion that the appellant had suitably demonstrated through technical evidence that the proposed access junction was acceptable. However, I have been not provided with the full information. In any case I have demonstrated that the information that was submitted was flawed as incorrect data was used to derive the sight stopping distances.
9. I, therefore, find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated.

Mrs A Fairclough

INSPECTOR