
Costs Decision

Site visit made on 7 November 2017

by A A Phillips BA (Hons) DipTP MTP MRTPI

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

Decision date: 24 November 2017

Costs application in relation to Appeal Ref: APP/R0660/W/17/3179691 331 and 333 Hungerford Road, Crewe, Cheshire CW1 5EZ

- 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 Jim Morgan of Homeworld Property Management Ltd for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission to convert the existing properties to form four self-contained apartments.
-

Decision

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

Reasons

2. The appellant submits that the Council has acted unreasonably in that it has gone against the advice of its professional officers without good reason and failed to fully substantiate the refusal on the grounds of there being insufficient private amenity space to serve the proposed development. The appellant contends that the proposal complies with the development plan, national policy and other material considerations and should have been permitted. Consequently, this has caused the appellant unnecessary expense in preparing the documentation for the appeal.
3. The Planning Practice Guidance advises that costs may 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.
4. The PPG makes it quite 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 or makes vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by any objective analysis.
5. Although the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council must clearly demonstrate on material planning grounds why a proposed development is unacceptable and must provide clear evidence to substantiate that reasoning.
6. In this particular case the relevant Council policy does not specify a recommended garden size for the type of development proposed. However, it does identify that it will be necessary to provide communal areas of open space which should be located so they can be used by all residents. The Council clearly had concerns about the size of the proposed shared amenity space of approximately 72 square metres and did not consider that to be sufficient to

serve the requirements of the occupants of four apartments. Consequently, given its size it was not considered by the Council to be able to fulfil the potential basic outdoor amenity needs of the occupants of the proposed four apartments with respect to matters such as sitting outside and drying clothes, for example.

7. In the context of the policy and the particular proposal the Council was entitled to exercise its own judgement and to conclude as it did. Indeed, I agree that the Council's decision 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. It will be seen from my decision that I do not agree with the Council Members and there were insufficient grounds to refuse permission relating to the harm to the living occupants of the development with particular reference to outdoor amenity space. However, the Council did clearly make its case with reference to this matter.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Alastair Phillips

INSPECTOR