



Costs Decision

Site visit made on 18 December 2018

by Kevin Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th March 2019

Costs application in relation to Appeal Ref: APP/R0660/W/18/3211980 Land to west of Frog Lane, Pickmere WA16 0LJ

- 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 M Dolan for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of *'outline application with some matters reserved for an infill residential development comprising one residential dwelling with associated outbuildings with access considered.'*
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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 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 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 and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant's claim is based on the fact that the Council refused the application based on a single paragraph in its delegated report, the author of which had recommended approval of the proposal. This paragraph, by a principal planning officer, disagreed with the conclusions of the report, and determined that the proposal was *'inappropriate development for which there were no very special circumstances.'* The Council's reason for refusal elaborated slightly on this position, stating that *'The proposed development does not constitute limited infilling in a village as the site represents a substantial gap along Frog Lane, detached from the village of Pickmere.'*
5. The Council subsequently did not submit a statement of case with the appeal. This, the appellant contends, amounts to a failure produce evidence to substantiate its reason for refusal.
6. The Council is in its rebuttal to the applicant's costs claim states that the *'favourable recommendation [by the planning officer] was made on the basis he was of the view the site represented a 'small gap.'* Defining what is a 'small gap', the Council states, is a subjective exercise, and the signing officer

disagreed with the delegated report, and took the professional view the scale of the gap was significant and could not be regarded as being within the definition of a small gap.

7. Whilst the extent of the Council's justification for its decision is limited, the wording of the reason for refusal, specifically '*the site represents a substantial gap along Frog Lane, detached from the village of Pickmere*' sufficiently explains the Council's principal argument that it did not consider the site to amount to limited infilling in a village.
8. Establishing what may constitute limited infilling requires a judgement having regard to the facts on the ground, which will differ in each case. Although the Council did not elaborate on the reason for refusal in an appeal statement, the original officer's report set out the relevant physical measurements of the site and its locational characteristics which, in my view, gave context to the signing officer's subsequent judgement, and it was sufficiently clear as to the principal matter at issue between the parties.
9. I acknowledge that, in the absence of more explanation in the delegated report, the applicant prepared a comprehensive appeal to cover arguments on various points. However, the main issue in the appeal is one requiring judgement based on the specific circumstances of the case. Although I have not agreed with the Council in my Decision, it was not the case that the Council's actions prevented or delayed development which should clearly have been permitted having regard to the relevant development plan policies and guidance.
10. On that basis, I find that the Council, in spite of its very limited comments, has not exhibited unreasonable behaviour and did not involve the applicant in unnecessary or wasted expense.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not justified.

Kevin Savage

INSPECTOR