
Costs Decision

Site visit made on 1 June 2020 by Hilary Senior BA (Hons) MCD MRTPI

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 24 June 2020

Costs application in relation to Appeal Ref: APP/A0665/W/20/3247078 615 Swanlow Lane, Winsford, Cheshire West and Chester CW7 4BP

- 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 Mrs E Dale for a full award of costs against Cheshire West & Chester Council.
 - The appeal was against the refusal planning permission for Erection of 2 no detached two-storey dwellings with associated access, garaging, parking, gardens and external works (renewal of planning permission ref: 15/04391/FUL).
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Decision

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

Appeal Procedure

2. An Appeal Planning Officer has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons

3. The Planning Practice Guidance (PPG) 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. Costs may be awarded to any party regardless of the outcome of the appeal.
4. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters such as providing information that is shown to be manifestly untrue or inaccurate, or deliberately concealing relevant evidence, and substantive matters such as preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations or fails to provide evidence to substantiate the reasons for refusal.
5. The appellant claims that the Council behaved unreasonably by not determining the application against all the relevant Development Plan policies and by having insufficient regard to material considerations and departing from the previous appeal decision in 2016 in which the Inspector concluded that the development should be allowed.

6. The Council respond by stating that an assessment of the proposal, taking into account the previous appeal decision and case law, was undertaken in a detailed and comprehensive report was prepared which provided adequate justification regarding the development's failure to comply with the Development Plan policy.
7. Since the previous appeal decision, the policy position in Cheshire West and Chester has changed with the adoption of the Cheshire West and Chester Local Plan Part Two Land Allocations and Detailed Policies in July 2019. As outlined in the appeal decision, the appeal proposal is not in accordance with the policies in the Development Plan. However, the weight to be given to other material considerations is a matter of planning judgement. Whilst I have drawn a different conclusion to the Council in this regard, I do not therefore find that it was unreasonable for the Council to refuse the application.
8. In addition, the appellant raises concerns about the Council's handling of the application, in particular with regard to registering and determining it. The Council have explained the circumstances around the application procedure and the reasons for the delays and I do not find that the delays amounted to unreasonable behaviour.
9. The PPG is clear that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs. Where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.
10. Consequently, the matter was one of a fundamental disagreement between the parties which could have only been resolved by way of an appeal. As such unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, an award of costs is not justified.
11. For this reason and taking into account all other matters raised, I recommend that the application is refused.

Hilary Senior

APPEALS PLANNING OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for an award of costs is refused.

Susan Ashworth

INSPECTOR

