



Costs Decision

Site visit made on 8 September 2020

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2020

Costs application in relation to Appeal Ref: APP/C1570/W/20/3252096 Chadam House, Parkland Place, Newport CB11 3RH

- 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 & Mrs CS Draper for a full award of costs against Uttlesford District Council.
 - The appeal was against the refusal of planning permission for the erection of 2no. dwellings and garages and the re-positioning and redesign of Chadam House garage.
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Decision

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

Reasons

2. Planning Practice Guidance (the Guidance) 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. Applications for an award of costs may be made on procedural or substantive grounds. The Guidance is clear in setting out the circumstances in which a Council could be vulnerable to an award of costs against it. This application for an award of costs is made on substantive grounds.
4. The Guidance cites examples of substantive grounds on which a Council could be vulnerable to costs against it. These include if a Council prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations or not determining similar cases in a consistent manner.
5. Whilst I have reached a different conclusion to that reached by the Council with regard to the substantive planning matters it has not been adequately demonstrated that the Council failed to have regard to all material considerations that it was required to do. Nor am I persuaded that the Council failed to take into account the existence of the previously approved scheme for a dwelling on plot 5.
6. It is clear that that scheme (as it relates to 'plot 5') differs from the current appeal proposal in terms of the scale and design of the dwelling, the location of the dwelling and its relationship with Chadam House and other adjacent properties. The broad principle of a dwelling at Chadam House may well have been established by that permission, but the Council clearly explained in relation to the current appeal proposal, albeit somewhat briefly, why the appeal proposal differed from the approved scheme on 'plot 5'. They may have given

different weight to the presence of that permission than I have, but I am satisfied that their reasons for doing so are clear, and clearly explained, in the Council's submissions.

7. Nor do I agree that the Council introduced new evidence regarding matters of overlooking and privacy at a late stage. The officer report is clear in its reference to the Essex Design Guide which is a material consideration to which weight can be given. Whilst the extent to which the proposal would be in conflict with the Essex Design Guide is not persuasively quantified and I have concluded that there are also other design features within the scheme that would ensure that overlooking would not be to a harmful level or to an extent that would not be unreasonable or unexpected within a residential context. However, the provisions of the Design Guide and other mitigating factors are material considerations and so the weight to be given to them is a matter of judgement for the decision maker. I disagree with the Council's conclusions for reasons I have set out in my decision, but I am satisfied that their conclusions were appropriately reached and did not amount to unreasonable behaviour.
8. Noting the subsequent agreement between the parties that the Council cannot demonstrate a 5-year housing land supply, the Council's case does not specifically invoke or rebuke the provisions of Framework paragraph 11. However, the broad principle of residential development is not a matter of dispute between the parties. Whilst I do not agree with the Council on the substantive planning matters of the case, I am satisfied that the Council have adequately substantiated and supported the reasons for refusal in their appeal submissions. Nor has it been argued that the policies relied upon in the matters that formed the reasons for refusal are inconsistent with the Framework's aims of securing high quality design.

Conclusion

9. For the reasons set out, it has not been demonstrated that the Council has behaved unreasonably and it cannot therefore follow that the appellant has incurred unnecessary or unreasonable expense. The application for an award of costs is therefore not justified.

Graeme Robbie

INSPECTOR