
Costs Decision

Site visit made on 8 September 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2020

Costs application in relation to Appeal Ref: APP/M0655/W/20/3254789 98 Rushgreen Road, Lymm, Warrington WA13 9QH

- 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 Stephanie Potter for a full award of costs against Warrington Borough Council.
 - The appeal was against the refusal of planning permission for the creation of a residential dwelling sitting entirely within the residential garden at the back of 98 Rushgreen Road, south of the existing building.
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Decision

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

Reasons

2. 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.
3. The application for a full award of cost is on the basis of the actions of the Council, which includes substantive matters. An application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. In this regard, the applicant's evidence to support their contentions is limited.
4. Nonetheless, the applicant contends that the Council has behaved unreasonable by 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. Furthermore, that the Council have given vague, generalised and inaccurate assertions about the proposal's impact which are unsupported by any objective analysis.
5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise". This is also set out in paragraph 47 of the National Planning Policy Framework (The Framework).
6. In this case, I have noted the recommendation of the Council's Officers. However, the decision is one which 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.

7. Whilst I appreciate that the outcome of the application will have been a disappointment to the applicant, the Council, including that of the Development Management Committee were not unreasonable in coming to that decision, and indeed following consideration of the application on its merits alone.
8. It will be seen from my decision that I agree with Council Members and that there were sufficient grounds for refusing planning permission on grounds relating to the harm to living conditions. In terms of the effect on the character and appearance of the area, the apportionment of weight is a matter for the decision maker, and in this case, there is no evidence to suggest the Development Management Committee attached an undue amount of weight to this or made vague, generalised and inaccurate assertions about the proposal's impact.
9. Moreover, the reasons for refusal set out in the decision notice are complete, precise and specific and relevant to the application and the proposals. It clearly states which policies of the development plan the proposal would be in conflict with. This is also set out in the Councils statement of case.
10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

KA Taylor

INSPECTOR