

Costs Decision

Site visit made on 10 November 2020

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2020

Costs application in relation to Appeal Ref: APP/A0665/W/19/3222101 Commonside House, Norley Road, Kingsley, Frodsham WA6 6LT

- 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 Tim Gibbs for a full award of costs against Cheshire West & Chester Council.
 - The appeal was against the refusal of planning permission for demolition of existing building and construction of single storey dwelling.
-

Decision

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

Background

2. The accompanying appeal decision to this costs decision supersedes that issued on 19th August 2019. That decision on the appeal was quashed by order of the High Court. Any costs relating to the court process are separate matters and not before me.
3. The cost decision on the application made by the applicant for a full award of costs against Cheshire West & Chester Council, that accompanied the 19th August 2019 appeal decision was not quashed and its findings remain. A new costs application has been submitted in relation to the redetermined appeal.

Reasons

4. 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.
5. 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. Moreover, it indicates that local planning authorities are at risk of an award of costs if they behave unreasonably by delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. The PPG also indicates that local planning authorities are at risk of an award of costs if they fail to determine similar cases in a consistent manner.
6. The applicant submits that the Council has acted unreasonably in not determining applications consistently in regard to its accessibility to services

and effects on the character and appearance of the area. Moreover, it is put to me that the Council has prevented and delayed development which should clearly be permitted and failed to substantiate its reasons for refusal.

7. There have been numerous planning applications in the locality and at the appeal site. From the evidence before me, there has been variation in aspects of the assessments made in the different schemes. However, I do not have full details of the circumstances that led to these proposals being accepted and, from the material before me, the various examples differ to the appeal proposal before me. Moreover, national policy and guidance and development plan policies have evolved, and it is not unreasonable for the Council to exercise planning judgement on matters such as character and appearance, taking into account the particular circumstances of each case.
8. The schemes were not, therefore, so similar that it was unreasonable for the Council to determine the application on its own merits against the development plan. That is how I arrived at my decision to dismiss the appeal. Consequently, I find that the Council has not acted unreasonably with regards to consistency in decision-making.
9. Although the Council has not responded to all of the applicant's points, it did seek to substantiate its position regarding the application of its policies and assessment of effects.
10. Given my conclusions in the appeal decision, the Council has not delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations including case law.
11. From the evidence before me, it would appear that the Council offered limited engagement with the applicant during its consideration of the planning application. However, given the nature of the main issues I cannot accept that this has led to wasted expense in the appeal.
12. Having carefully considered the points raised, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
13. Accordingly, I determine that the costs application should fail, and no award is made.

Robert Walker

INSPECTOR