
Costs Decision

Site visit made on 8 December 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2021

Costs application in relation to Appeal Ref: APP/R0660/W/20/3258170 Dunmow, Mereside Road, Mere WA16 6QZ

- 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 Ande for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for replacement dwelling.
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Decision

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

Reasons

2. 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.
3. The application for a full award of costs is on the basis that the Council failed to consider that the property was within both a village and ribbon development as part of the special circumstances to justify the development. The applicant also suggests that the new permitted development regulations for the enlargement of a dwellinghouse by construction of additional storeys, Class AA of the Town and Country Planning General Permitted Development (England) Order 2015 (as amended), (the GPDO) was not considered by the Council.
4. The Councils delegated report describes the site and context, in particular it acknowledges that the site forms part of a ribbon of residential development, washed over by the Green Belt. The report goes on further to consider the very special circumstances which have been put forward and ascribes the weight given.
5. As such, there is little before me to suggest that the Council have misinterpreted the location of the appeal site or the special circumstances put forward, relevant local or national planning policy relating to replacement dwellings in the Green Belt. It also sets out the clear considerations that the application was determined on, from their own assessment and own judgement following site visits, of which they are entitled to do so.
6. The application was determined by the Council on the 27 May 2020, the amendments to the GPDO did not come into force until 31 August 2020 and Class AA was added by the Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2020/755. As such, the

Council would have been unable to consider such permitted development regulations at the time of determination of the application and therefore it could not form a material consideration.

7. Moreover, Class AA of the GPDO is subject to a number of limitations and the condition that before beginning the development, the developer must apply to the local planning authority for prior approval as to a number of set matters being satisfied. In this case, the applicant has not provided any substantive evidence that these limitations would be met, and the Council confirm in their statement of case that no prior approval application has been submitted for determination. In the absence of this, there was no real prospect that this might take place.
8. I appreciate that the applicant engaged with the Council for a paid consultation to progress their application and that they instructed an architect to create additional planning drawings. However, I have no substantive evidence of any pre, or post application advice and it is not clear if this is directly related to the appeal preparation process. This would be the choice of the applicant if they wished to pursue additional direct consultation with the Council. However, it would appear that the appeal was inevitable given the disagreement between the main parties on the proposed replacement dwelling.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG during the appeal process has not been demonstrated and that an award for costs is not justified.

K A Taylor

INSPECTOR