



Costs Decision

Site visit made on 16 March 2021

by Siobhan Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2021.

Costs application in relation to Appeal Ref: APP/R0660/W/20/3262327 Cypress House, South Acre Drive, Handforth, SK9 3HN

- 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 Churchill Retirement Living for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for the formation of 45 apartments for older people (sixty years of age and/or partner over fifty-five years of age) guest apartment, communal facilities, access, car parking and landscaping.
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Decision

1. The application for costs is refused.

Reasons

2. In accordance with the Planning Practice Guidance, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Unreasonable behaviour includes, amongst other matters, preventing or delaying development which should clearly be permitted; failure to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
3. The application was recommended for approval by Officers but refused by the Planning Committee. Members do not have to accept the recommendations of Officers.
4. The Council included policies in the decision notice that were not identified as being breached at the Planning Committee. However, parties are entitled to submit evidence with their appeal to substantiate their position and the Council could have relied on these policies whether or not they were included in the decision notice.
5. The Council substantiated its position on the grounds of character and appearance in that it explained that the size and scale of the building left too little room for landscaping. The physical lack of space for landscaping cannot be overcome by use of a condition. The Council substantiated its position on living conditions by providing an analysis on the amount and position of the external amenity space.
6. Even if the Applicant considers that the matters of landscaping and amenity space were not justified reasons for refusal, they have been put before me and

I am entitled to consider them given that the evidence has been made available to all parties in accordance with the appeal timetable.

7. The Applicant contends that that the Planning Committee was wrong to identify a conflict with Cheshire East Local Plan Policy SD2 and the Council's Parking Standards. However, even though I have found no harm in respect of highway safety, it is a matter of planning judgement. The Council is not bound to accept or agree with the evidence provided by the Applicant or the advice from its Highway Engineer. The Council has clearly explained why it did not accept the Applicant's evidence. That is that the parking data referred to was in relation to developments in different locations with different characteristics to the appeal site.
8. The Council's Parking Standards explain that they apply to new developments where there is clear and compelling justification that it is necessary to manage the road network. The Council substantiated its position by reference to concern about overspill parking on South Acre Drive. Furthermore, the standards for sheltered housing/extra care housing are "recommended" levels and the proposed parking provision was substantially below those levels. Although the Parking Standards suggest that the amount of car parking required can be varied on a site by site basis, the Council has discretion over whether to vary them based on the evidence submitted.
9. The Applicant claims that planning permission should have been granted because the scheme accords entirely with the development plan. On the contrary, I have found that it would conflict with the development plan as a whole.
10. The Applicant also claims that even if a conclusion had been reached that the proposal was contrary to the development plan, material considerations indicate that planning permission should be granted. However, I have found in my decision that this is not the case.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the Applicant's claim for costs fails.

Siobhan Watson

INSPECTOR