



Costs Decision

Site visit made on 25 May 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd July 2021

Costs application in relation to Appeal Ref: APP/L3245/W/20/3265966 Maesbrook Nursing Home, Church Road, Shrewsbury, SY3 9HQ

- 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 Maesbrook Care Home Limited for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for a proposal described as *"erection of a building to provide occasional accommodation for visiting families with associated works"*.
-

Decision

1. The application for an award of costs is allowed in part in the terms set out below.

Reasons

2. 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 appellant submits that the Council has acted unreasonably in basing its objections on vague, generalised, or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis or substantive evidence. It is also contended that the Council failed to enter into discussions with the appellant during the application process, or to review its case promptly once the appeal was lodged. The appellant considers that had it done so the appeal could have been avoided, or the matters under dispute narrowed.
4. The Council's Decision Notice sets out a single reason for refusal. However, it identifies 2 separate planning issues, which are reflected in the Main Issues in my appeal decision. With regard to the second part of the reason for refusal, the Decision Notice identifies a conflict with Policy CS13 of the Shropshire Core Strategy (2011), which aims to promote economic development. However, this is a strategic policy that provides no basis for refusing permission on the grounds that are cited in the Decision Notice. Moreover, no substantive evidence or analysis has been provided to show that the development would limit the growth of existing businesses. Given that it proposes only a single unit of accommodation (for use in association with the care home) I consider that to be highly unlikely. In my view, the Council has clearly failed to substantiate this part of its reason for refusal, and it has acted unreasonably in this regard.

5. In respect of character and appearance, the Decision Notice states that the development would be overly prominent, visually disconnected from the existing care home, and out of character with its surroundings. This is supported by further analysis in the Development Management Report. Whilst I took a different view, this is essentially a matter of planning judgement and the Council did not act unreasonably in coming to this position.
6. The Decision Notices cites a conflict with Policy CS17 of the Shropshire Core Strategy (2011) and Policy MD12 of the Shropshire Council Site Allocations and Management of Development Plan (2015). However, I note that these policies require development to contribute positively to the special characteristics of an area and to local distinctiveness. Accordingly, these policies relate to the Council's objection to the development on character and appearance grounds.
7. Separately, my attention has been drawn to sections of the Development Management Report that relate to parking and drainage. However, these matters do not form part of the reason for refusal (as is set out in paragraph 6.3.3) and were therefore not in dispute.
8. Finally, the appellant states that attempts were made to enter into a dialogue with the Council in order to avoid an appeal, and that the Council did not respond to these overtures. However, given that the Council has chosen to defend all aspects of its reason for refusal, it is not clear that the matters under dispute could have been narrowed had it taken a different approach.

Conclusion

9. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Shropshire Council shall pay to Maesbrook Care Home Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in rebutting the purported effect of the development on the growth of existing businesses; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. Maesbrook Care Home Limited is now invited to submit to Shropshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Hatfield

INSPECTOR