
Costs Decision

Site visit made on 15 June 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2021

Costs application in relation to Appeal Ref: APP/J4423/W/20/3265726 Land at 45, Dore Road, Sheffield S17 3NA

- 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 David and Stephanie Woskow for a full award of costs against Sheffield City Council.
 - The appeal was against the refusal of grant subject to conditions of planning permission for erection of 3 dwelling houses including demolition of existing garden chalet to facilitate access.
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Decision

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

The submission by David and Stephanie Woskow

2. The applicants have advanced that the Council has failed to apply Policy CS 31 of the Sheffield Core Strategy (the Core Strategy) appropriately or consistently. It is advanced that the Council failed to give due weight to similar developments in the area, the current housing land supply position and the National Planning Policy Framework (the Framework). The applicants consider that the Council has also failed to provide clear evidence of the consequences of the development and a decision has been reached on a subjective and unfounded judgement.
3. Furthermore, the applicant has stated that a detailed appeal statement and list of conditions was not submitted by the Council during the appeal. It is also claimed that the second reason for refusal relating to living conditions was a complete surprise to the appellant and this matter could have been resolved through pro-active engagement prior to the decision being reached.
4. Consequently, the appellant considers that unnecessary expense relating to the professional support required to make what is considered to be an unnecessary appeal has been incurred.

The response by Sheffield City Council

5. The Council has maintained that Policy CS 31 was applied consistently. Furthermore, it is stated that reference was made to the other sites in question and the appropriate weight was attached to these. The Council points out that this part of Dore Road has a different character, including the absence of backland development. It was made clear in the report that significant weight was afforded to protecting the character and appearance of the area. The

application has been determined on its own merits in respect to its impact on the site and prevailing character of the immediate area and the housing land supply position.

6. The Council considers that the officer's report and decision notice contained sufficient information such that no appeal statement was required, and the Council commented on the suggested conditions provided by the applicants.
7. They advise that the applicants had been made aware of the substantive issues. However, a remedy for the second reason for refusal was not sought by the Council as it was not considered useful for either party to spend further time and costs to resolve this point and it would further delay the determination of the application.
8. The Council advances that the applicants have not clearly demonstrated that an unnecessary expense was incurred and requests that the application for costs is refused.

Reasons

9. The assessment of the character and appearance of the area and the level of impact that a proposal would have on this does bring a degree of subjectivity with it, particularly where a detailed character assessment for an area does not exist. Nonetheless, the officer's report takes the relevant planning matters into consideration and a balance is undertaken. It is for the decision-taker to attribute weight to the relevant considerations.
10. From my assessment of the submitted evidence and my own site observations, I have drawn a different conclusion to the Council in terms of the effect of the appeal proposal on the character and appearance of the area and living conditions. This has tipped the balance in favour of the appeal proposal and has resulted in a different outcome to that maintained by the Council.
11. Nonetheless, there is insufficient evidence to confirm that an inconsistent approach was taken by the Council in their own assessment and application of local policies and the Framework.
12. It was the Council's prerogative not to provide a further statement to defend their position. There was a sufficient basis upon which I was able to reach my decision.
13. Disappointingly, the absence of a list of suggested conditions fell short of what is reasonably expected as part of the appeal questionnaire protocol. However, the resource spent on compiling a list is unlikely to have been significantly greater for the applicants than reviewing a list that should have been provided by the Council in the first instance.
14. To be justified, any reason for refusal should be capable of standing in its own right as a reason for resisting a development proposal. Consequently, it is also disappointing if the applicants were taken by surprise by the inclusion of the second reason for refusal. As has been demonstrated, that particular matter could have been addressed by amended plans or a suitably worded planning condition. This could have narrowed the focus of the dispute had the Council taken a pro-active approach to that matter, particularly as the determination period had already far exceeded the statutory timeframe.

15. Nonetheless, in view of the Council's overall assessment, the appeal would have still arisen in terms of the disputed effect on the character and appearance of the area.

Conclusion

16. For the reasons given above, I do not find that unreasonable behaviour from the Council on substantive grounds, as described in the Planning Practice Guidance (PPG), is evident. Consequently, neither has any unnecessary expense in terms of the preparation and submission of the relevant appeal occurred.
17. As the relevant tests set out in the PPG in respect to the determination of costs applications have not been met, I conclude that an award for costs is not justified.

C Dillon

INSPECTOR