

Costs Decision

Site visit made on 9 November 2021

by Mr R Walker BA HONS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Costs application in relation to Appeal Ref: APP/R0660/W/21/3278214 10 West Bank Road, Macclesfield SK10 3BT

- 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 Reza Farahdel for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for two storey side and single storey rear extensions and front porch replacement.
-

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. It is put to me that the Council, prevented or delayed development that should have been permitted and failed to produce evidence to substantiate the reason for refusal, relied upon vague, generalised, and inaccurate assertions and did not engage with the applicant proactively.
4. The application was determined with the Council raising two issues in relation to light and outlook in its reason for refusal. No technical evidence was submitted to the Council as part of the planning application, so it is not unreasonable for the Council Officer to rely on a professional judgement in the absence of such information.
5. The appellant subsequently undertook technical work which was provided in the appeal in the form of a Daylight and Sunlight Amenity Impact Assessment (DSAIA). Considering this additional information the Council withdrew its objection on the basis of the effect on light. As such, there is no evidence that wasted expense has occurred, whether this work was undertaken as part of the planning application or the appeal process. Irrespective, an appeal would still have been necessary due to the Council's concerns regarding outlook.
6. It is not unreasonable for the Council to make an assessment on the outlook from the neighbouring properties and it did seek to substantiate the assessment in the Officer Report. It will be seen from my appeal decision, that I found there would be an acceptable effect on the outlook at the neighbouring properties. However, such a conclusion arises from matters of judgement on a

subjective issue relating to the proposal's impact, relative to the policies of the development plan. Consequently, irrespective of the outcome of the appeal, I cannot find that the Council behaved unreasonably, relative to the main issue, in offering a different view to my own.

7. I accept that the Council's lack of engagement during the planning application would have been frustrating. However, the objections from the neighbouring properties would have been available to the applicant's agent prior to the determination of the application and there would have been time for the applicant to proactively provide a response to those objections prior to its determination.
8. In any case, I have no firm evidence that more positive engagement from the Council would have resulted in the appeal being avoided whilst still achieving the scope of development sought by the applicant. It was, ultimately, the applicant's right to pursue an appeal rather than purely a revised planning application with an alternative scheme.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
10. Accordingly, I determine that the costs application should fail, and no award is made.

Mr R Walker

INSPECTOR