



Costs Decision

Site visit made on 18 October 2021

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Costs application in relation to Appeal Ref: APP/A0665/W/21/3275947 Outbuildings at Monument Place, Stannage Lane, Churton By Aldford, Chester CH3 6LE

- 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 E Trevor-Barnston for a full award of costs against Cheshire West and Chester Council.
 - The appeal was against the refusal to grant planning permission building works to facilitate a C1 use as granted under 20/00216/PDR.
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Decision

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

Reasons

2. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). It explains that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense¹.
3. The applicant's argument for an award of costs is principally on three grounds. First, they argue that the Council did not correctly assess the application in light of the prior approval consent², and did not refuse the application that is the subject of this Costs Decision (Ref 20/02380/FUL) on sound planning grounds. Secondly, the applicant contends that the Council has attempted to introduce additional objections to the scheme at appeal. Thirdly, the applicant considers that the Council has been overly legalistic in referring to relevant case law³. I deal with these matters in turn.
4. The determination of the application required planning judgement, both in terms of legislative and policy provisions. Those are intricate matters, and I have noted in the associated appeal decision how there is at present a lack of guidance, appeals or case law on Class R prior approvals given their recency. The relevance of the prior approval consent is referenced and considered in the Council's delegated report and at appeal. I accept that no countervailing appeals or case law is cited directly in response to the applicant's referencing of appeal Ref APP/F610/W/17/3188502 (which covers similar procedural circumstances). Nevertheless, each proposal must be determined on its merits,

¹ Reference ID: 16-030-20140306

² Reference 20/00216/PDR

³ Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314

and the applicant's first argument boils down essentially to a disagreement over planning judgement, rather than unreasonable behaviour.

5. Secondly, in the Council's delegated report and preceding correspondence, concern was raised over effects on character and appearance (the matters which the appellant explains the Council inappropriately sought to reintroduce at appeal which were not cited in the decision notice). However, in my view this is based on an overly forensic reading of the Council's decision notice; I have reasoned in the associated appeal decision how matters of landscape character are relevant in terms of policies cited therein.
6. Thirdly, planning is often intricate and good law is inevitably material in planning decisions. Whilst I accept that understanding the application of case law from an appellant's perspective may be challenging, as such it is entirely reasonable for the Council to have applied principals established through relevant judgements in their determination of the application.
7. More broadly, although I allowed the appeal, there is legitimately a matter of planning judgement at hand in terms of whether, with reference to the history of the site, other appeals and case law, the scheme was acceptable. As such it is not the case that the development should clearly have been permitted, and thus the appeal was unnecessary. Sufficient evidence was submitted to support the Council's stance and reasoning within the delegated report and reason for refusal.
8. The applicant has not shown that the Council's refusal of planning permission was unreasonable. In the absence of any unreasonable behaviour there are no grounds for an award of costs.

L M Wilson

INSPECTOR