
Costs Decision

Site visit made on 23 August 2022

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2022

Costs application in relation to Appeal Ref: APP/M1005/W/22/3294657 Land off Top Lane, Top Lane, Whatstandwell, Matlock DE4 5EF

- 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 J. Uphill for a full award of costs against Amber Valley Borough Council.
 - The appeal was against the refusal of outline permission for two dwellings, with all matters reserved.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. Local Planning Authorities are encouraged, through the PPG, to exercise their development management responsibilities by relying only on reasons which stand up to scrutiny on the planning merits of the case.
3. In addition, the PPG is clear that the reasons for planning decisions should not be vague, generalised or have inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant for costs has suggested that the Council did not consider the previous granting of planning permission on an adjacent site. However, the Council's delegated report references this previous decision. Therefore, it formed part of the decision-making process on the part of the Council.
5. In particular, the Council has outlined some differences between the appeal site and the adjoining site. This includes the provision of a notable amount of landscaping that would result in the adjoining development being appropriately screened. Therefore, the adjoining development would have different effects to the appeal scheme.
6. It is a requirement that planning applications be assessed on their own individual merits. Therefore, given that there are notable differences between the two sites, which have been explained, I am unable to identify unreasonable behaviour in this regard. Furthermore, the Council has identified relevant development plan policies and has assessed the development against their requirements. The Council has subsequently identified harm that would arise from their analysis.

7. In addition, the Council has identified changes to the Development Plan subsequent to the granting of planning permission on the adjacent site. Of note, the Crich Parish Neighbourhood Plan (2018) has been the subject of a successful referendum. It therefore now carries full weight in the development management process.
8. The Neighbourhood Plan includes a policy that seeks to ensure that the character and appearance of the Conservation Area is either preserved or enhanced. Therefore, this provides a strengthening of the importance of maintaining heritage assets. In result, I am unable to find that the Council acted unreasonably in giving weight to this policy.
9. Planning decisions should be determined in accordance with the development plan, unless material circumstances indicate otherwise. The proposed development would breach several development plan policies, from which harm would emanate. The other material considerations are not indicative that a decision should be made other than in accordance with the development plan. In consequence, I am unable to identify any unreasonable behaviour on the part of the Council.
10. In result, I cannot agree that the Council has acted unreasonably in this case. As such, I do not believe that the appellant was put to unnecessary or wasted expense. Therefore, an award of costs is not justified.

Conclusion

11. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Benjamin Clarke

INSPECTOR