



Costs Decision

Site visit made on 15 November 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2022

Costs application in relation to Appeal Ref: APP/A0665/W/22/3299839 Land at Ollershaw Lane, Marston, Cheshire CW9 6ER

- 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 P Lunn for a partial award of costs against Cheshire West & Chester Council.
 - The appeal was against the refusal of planning permission for demolition of existing storage building, replacing with single storey dwelling and change of use of land to domestic curtilage.
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Decision

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

Reasons

2. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. The applicant's concerns relate to the Council's approach to Green Belt policy and its assertions about the proposal's impact on the character and appearance, which the applicant contends are unsupported by any objective analysis of the design.
4. The starting point for development proposals often lies with the lawful use of the site. Having recently been the subject of a planning permission¹ for agricultural development, and in the substantial absence of information to demonstrate an alternative use has been established on the site, the Council's report informing its decision is clear that it considered the lawful use of the site to be agricultural. Accordingly, in conjunction with the definitions in Annex 2 of the National Planning Policy Framework (the Framework), this negates the need for detailed consideration of the exceptions to the restrictions to new buildings in the Green Belt listed at Paragraphs 149 d) and 149 g) of the Framework.

¹ 18/00156/FUL

5. Although the applicant asserts 'previously developed land' status on the site, if information was provided to the Council in support of that claim, it has not been provided in support of the appeal.
6. As the Council has explained its decision in concluding that the proposal did not fall within the exception at Paragraph 149 e) of the Framework, and therefore its conflict with Policy STRAT9 of the Cheshire West and Chester Council Local Plan (Part 1) Strategic Policies, it appropriately assessed the development against the most relevant policy applicable to the site situation. I therefore find that its approach to application of the Green Belt policy was not unreasonable.
7. In relation to design, the officer report sets out the Council's concerns in relation to a proposal for a single storey dwelling clad in timber within a row of predominantly 2-storey houses finished in brick and render. It also identified that the plot shape was unusual in the line of development along Ollershaw Lane.
8. Whilst I have found in favour of the proposal in terms of its effect on the character of the locality, the discrepancies highlighted by the Council are not necessarily without merit. Although the Council appear to have limited the extent of comparison to the immediate part of Ollershaw Lane, as a balanced approach to the subjective matter of design, I find that the Council was entitled to come to a different conclusion and its conclusion was not unreasonable. Furthermore, it has restated its reasoning for the purposes of the appeal.
9. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Hitchcock

INSPECTOR