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## Costs Decision

Site visit made on 5 October 2023

**by A Hickey MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 October 2023**

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### **Costs application in relation to Appeal Ref: APP/A0665/W/23/3319531 Cuddington House, Chorlton Lane, Cuddington, Malpas SY14 7EW**

- 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 Dan Gratton for a full award of costs against Cheshire West and Chester Council.
  - The appeal was against the refusal of planning permission for conversion of Pavilion garage and workshop to dwelling.
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### **Decision**

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

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, 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. The applicant considers that the Council acted unreasonably by failing to consider the pavilion building against a policy related to non-designated heritage assets and also a failure to fully consider the 'fallback' position of the site and buildings.
4. I have had regard to the evidence provided to me, it is clear within the Council's officer report that a thorough assessment of the merits of the buildings on site was undertaken. As shown in the accompanying appeal decision, whilst the associated pavilion does have some architectural merit, there was no cogent evidence before the Council to demonstrate the building was worthy of consideration as a non-designated heritage asset. I am satisfied that the Council's decision not to consider the building a non-designated heritage asset included a thorough understanding of the pavilion's significance based on their observations and the evidence before them.
5. In light of this, whilst the appellant may consider that the Officer's report should have included more detailed information, such as why it is not considered to be a local heritage asset, I do not consider that it is unreasonable not to have considered the scheme against a policy the Council did not consider relevant to the merits of the application. As seen from my decision, my view on this matter reflects that of the Council.
6. Regarding the weight to be given to the 'fallback' position, it is a matter of judgement. In this case, the Council do not dispute that the fallback position is a material consideration, but given the appellant's evidence regarding the likelihood of the agricultural use coming forward and the significant conflict

with the development plan, I do not consider that the Council has acted unreasonably in giving little weight to it in the decision making process. It will be seen from my decision that my view on this matter reflects that of the Council.

7. Accordingly, I do not consider that the Council failed to properly evaluate the significance of the pavilion or the lawful fallback position, and therefore the appeal could not have been avoided. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*A Hickey*

INSPECTOR