
Costs Decision

Site visit made on 30 January 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2024

Costs application in relation to Appeal Ref: APP/X1545/W/23/3322035 Land adjacent 2 Grange Road, Wickham Bishops, Essex CM8 3LT

- 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 and Mrs Johal for a full award of costs against Maldon District Council.
 - The appeal was against the refusal of planning permission for new build detached single family dwelling.
-

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. PPG explains that unreasonable behaviour in the context of an application for an award of costs may be either:
 - procedural – relating to the process; or
 - substantive – relating to the issues arising from the merits of the appeal.
3. The applicant claims that the assessment by the Council is flawed by failing to appreciate the ‘principle’ of a detached house on this site which has already been established with the previous grants of planning permission. It is claimed that the Council previously identified a previous permission as being lapsed which is said to be incorrect.
4. Reference is made to a previous cost’s decision ¹ which is claimed to have parallels with this costs application whereby in that decision it was concluded that the Council did not fully consider the applicants evidence or give it appropriate weight as well as limited analysis.
5. The PPG advises behaviour that may give rise to a substantive award of costs including, amongst other matters, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations;

¹

APP/B0230/X/22/3298214

acting contrary to, or not following, well-established case law and not determining similar cases in a consistent manner.

6. From the evidence before me, despite reference to a previous application being lapsed, it is clear that the Council has acknowledged the previous consents on the site and concluded within their officers' report that the history of the site has established that a dwelling on the site is acceptable in principle. The Council go on to set out the level of changes proposed to the scheme which is the subject of this appeal, identifying that the scale and appearance of the proposed dwelling differs from that previously indicated and thus raise concern in this regard.
7. Policies D1 and H4 of the Local Development Plan, 2014 – 2029, 2017 and Policy WBH 01 of the Wickham Bishops Neighbourhood Plan, 2016-2029 amongst other matters, requires development to respect and enhance the character and local context and make a positive contribution. It is not unreasonable for the Council to raise concern about the impact of the proposed development on the character and appearance of the area given that this is indeed a matter of planning judgement. This informed its decision given the site context, changes made to the scheme and relationship to the public footpath to the west of the site. I do not therefore find that development was prevented or delayed which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations. I also have no compelling case to demonstrate that the Council has not followed well established case law.
8. Whilst the Council may have previously determined similar developments, there are none before me which would be directly comparable to the appeal site in question as their overall site-specific context is indeed different. Additionally, each application is determined on its own merits, and I do not find it unreasonable for the Council to not have afforded any significant weight to previous schemes in the area.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in relation to the substantive matters of the appeal and that an award of costs is not justified.

N Teasdale

INSPECTOR