The Planning Inspectorate

Costs Decision

Site visit made on 20 June 2023

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Costs application in relation to Appeal Ref: APP/T3725/D/22/3307585
West Hill Westhill Road, Cubbington, Leamington Spa, Warwickshire CV32 6RA

- 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 Gavin Raeburn for a full award of costs against Warwick District Council.
- The appeal was against the refusal of planning permission for proposed single storey detached garage and garden maintenance store with walled courtyard.

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. In this instance, the applicant refers to the Council's alleged unreasonable approach during the determination of the planning application.

3. The applicant states that the Council failed to give appropriate weight to a Unilateral Undertaking (UU) which was submitted as 'very special circumstances' necessary to outweigh the harm to the Green Belt. Additionally, the applicant states that the Council incorrectly assessed the UU against the tests set down in the National Planning Policy Framework relating to conditions and failed to take into account the comments of a previous Inspector.[1] It is stated that ultimately this led to the refusal of the planning application.

4. Whilst the Council's decision made no reference to the tests which are set down in Regulation 122 of the CIL Regulations, the Council put forward a reasoned and evidenced approach as to why they considered it was not appropriate to restrict householder permitted development rights and why the restrictions in the UU would not amount to very special circumstances. Additionally, I note that the previous appeal decision does not explicitly reference the acceptability of a UU as a mechanism to restrict permitted development rights. Thus, the Council did not fail to consider the comments of a previous Inspector.

[1] Appeal Ref: APP/T3725/D/18/3217513

5. Even if it were the case that the submission of the UU had been invited by the Council, I have found that the Council have clearly reasoned and justified their case regarding why a UU could not be used to restrict permitted development rights in this case.

6. I find that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.

N Robinson

INSPECTOR