



Costs Decision

Site visit made on 4 June 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2024

Costs application in relation to Appeal Ref: APP/J3720/W/23/3332940 Ashbury House, The Old Gated Road, Chesterton, Warwickshire CV33 9LD

- 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 John Roles for a full award of costs against Stratford-on-Avon District Council.
 - The appeal was against the refusal of planning permission for erection of an outbuilding "Summerhouse" in the residential garden of Ashbury House and change of use of the "Summerhouse" and part of the residential garden for accommodating the registered childminding business Little Sparkles and Stars Ltd.
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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. PPG Paragraph 047 provides a non-exhaustive list of types of behaviour which may give rise to a procedural award against a local planning authority, including failing to attend or be represented at a site visit; failure to adhere to deadlines; lack of co-operation with the other party; and prolonging the proceedings by introducing a new reason for refusal.
4. The applicant alleges the Council behaved unreasonably for the following reasons: failure to carry out a site; not adhering to deadlines; determining the application through delegated powers; poor communication; changing reasons for refusal; skewed and imbalanced determination; and failure to take into account government's position on childminding businesses in rural areas.
5. The Council indicates a site visit was carried out in August 2023, thus prior to determination of the planning application. The rear of the dwelling was not accessed. However, the case officer was able to utilise photographs held by the Council's Enforcement team. Site visits involving observations from public land such as the highway are not uncommon. Therefore, I am unconvinced that unreasonable behaviour occurred through failure to attend a site visit.
6. The parties agreed an extension of the time limit for determination of the planning application. There is disagreement regarding the date of submission of additional supporting statements and photographs. Nonetheless, it was necessary for the case officer to fully consider this additional evidence. The

failure to meet the extended deadline was as a consequence of the submission of late evidence, which I do not consider amounts to unreasonable behaviour.

7. Whilst the Parish Council initially expressed support for the proposal, this was unsubstantiated by planning reasons. The applicant asserts there is no evidence of formal reconsideration by the Parish Council. However, the Council had no reason to doubt the authority of the Chair to act on the Parish Council's behalf in providing written confirmation of the withdrawal of support for the scheme. There is no certainty the appeal would have been avoided were the planning application not determined through delegated powers.
8. The applicant expressed concerns regarding a lack of communication during the application process. However, in a thread of emails sent from the case officer to the planning agent in the month prior to the decision, the officer explained procedural arrangements and set out reasons why the proposal would not be supported. Therefore, I am content that unreasonable behaviour from a lack of communication did not occur.
9. In addition, in the email dated 20 September 2023, the case officer explained their concerns that the proposed use at the site's countryside location would not comply with the development plan. This formed the sole reason for refusal, and the main issue in the Council's statement of case during the appeal. Consequently, it is evident the reasons for refusal did not change.
10. The delegated report sets out the Council's assessment which found the scheme to be contrary to the local development strategy and "heavily car dependent". In its conclusions, the report includes a balancing exercise of the perceived harm against the social and economic benefits of the scheme which the Council considers to be "small scale". Whilst I reached different conclusions in my own decision, the weight to be applied to harms and benefits is a matter of planning judgement. I do not consider the determination was skewed or imbalanced, nor that unreasonable behaviour occurred in this regard.
11. In addition, the applicant alleges the Council failed to take account of government's position on the national economic and social importance of childminding businesses, particularly in rural areas. However, planning law instructs applications be determined in accordance with the development plan unless material considerations indicate otherwise. The delegated report provides a summary of third-party representations received and therefore Council understood the value of the childminding business to local people.
12. The applicant alleges they incurred additional expense in professional fees due to the time invested in the planning application and appeal, and through disruption to the business and its staff and customers due to the uncertainty caused by the refusal of planning permission. However, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.
13. Therefore, I conclude unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

E Dade

INSPECTOR