



Costs Decision

Site visit made on 2 May 2024

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Costs application in relation to Appeal Ref: APP/R0660/W/23/3327031 Higher Kinderfields Farm, Hollin Lane, Sutton SK11 0NN

- 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 Mike Eardley for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for the change of use of a garage/workshop into 5 accessible tourist units.
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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 acceptability of this proposal and the lawfulness of the existing building have become intertwined. The appellant has engaged legal representation to address this matter and therefore incurred costs. However, this is an appeal under Section 78 of the Act and it is not the forum to test lawfulness under Section 191/192 of the Act.
4. The reason for refusal refers to sub-section 3 (ii) of Cheshire East Local Plan Strategy PG 6, which relates to the re-use of buildings. The parties disagree on this matter but I am satisfied that the Council has assessed the scheme against the policy and the development plan as a whole. Thus, I do not find that the Council has acted unreasonably in relation to the first reason for refusal.
5. The Council's Environmental Health section did not object to the proposal in relation to various matters but provided no comments in relation to amenity. This neither supports nor objects to the proposal on amenity grounds. Furthermore, the Council's Highways section raised no objections regarding highway matters and compared traffic generated from farm activities with the seasonal traffic generated from the proposal. This indicates a lack of concern regarding highway safety but does not address amenity. I do not find that the responses from these consultees indicate that the Council has acted unreasonably in relation to the second reason for refusal.
6. Given the harm I have found, the Council has not prevented development that should clearly have been permitted, having regard to the development plan, national policy and other material considerations.

7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J D Clark

INSPECTOR