



Costs Decision

Site visit made on 13 May 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 16th July 2024

Costs application in relation to Appeal Ref: APP/M1005/W/23/3330844 Christmas Cottage, Church Lane, Kirk Langley, Ashbourne DE6 4NG

- 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 Thompson for a full award of costs against Amber Valley Borough Council.
 - The appeal was against the refusal of planning permission for reserved matters application following the approval of AVA/2021/0765 (APP/M1005/W/22/3291303) providing details for access, appearance, landscaping, layout and scale for one proposed 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. In this case, the applicant is seeking a full award of costs to cover expenses incurred in the appeal process, including time expended by the appellant and their representatives. This is on grounds that the Council unreasonably prevented or delayed development that should clearly have been permitted.
4. The planning application was refused by the Council contrary to the planning officer's recommendation for approval. I understand that the decision would have been a considerable disappointment to the applicant, particularly given the proactive collaboration between the parties during the processing of the application in order to reach an acceptable form of development. Nevertheless, it was clear in correspondence from the planning officer that the ultimate decision would be taken by the planning manager and there was no guarantee that it would be approved, irrespective of the officer recommendation.
5. The applicant clearly disagrees with the Council in relation to the acceptability of the proposal and, in this regard, he exercised his right to appeal and thereby to challenge the Council's decision. However, while he takes issue with what he perceives to be the undue influence of the conservation officer consultee, he does acknowledge that the Council was entitled to reach a decision contrary to the planning officer's recommendation.
6. The principle of residential development was established by an earlier appeal (ref APP/M1005/W/22/3291303). In allowing that appeal, the Inspector concluded that the outline scheme subject of the appeal would have

appropriate regard to the scale of local buildings and it would not harm the character or appearance of the Kirk Langley Conservation Area (CA). However, all matters were reserved for future consideration and that appeal did not specifically address matters of scale, layout and appearance. Moreover, the appeal site boundary is in any case larger than the approved outline permission boundary, which appears to have enabled a greater quantum of development than could potentially be accommodated by the outline boundary. It was not therefore unreasonable of the Council to consider the details of the reserved matters application and to refuse permission.

7. The appellant considers that the reasons for refusal, including reference to the proposal being disproportionate and therefore harmful, are vague, generalised and inaccurate assertions unsupported by any objective analysis. However, the Council's concerns are elaborated upon and substantiated in the officer report and the appeal statement of case. The applicant refers several times to the Council's request to reduce the width of the dwelling. Irrespective that there may be no specific policy setting out the precise width of acceptable dwellings, the Council was clearly seeking to reduce the size of the dwelling in order that it would be in keeping with the proportions and scale of the historic buildings that characterise the area. Based on the evidence and my visit, I am satisfied that the Council's position was based on a robust knowledge and understanding of the key characteristics and the significance of the CA.
8. As can be seen from my appeal decision, I reached a similar conclusion to the Council in relation to the adverse impact of the proposal on the character and appearance of the area. As I dismissed the appeal accordingly, it follows that the Council did not unreasonably withhold planning permission nor did it prevent or delay development that should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

Conclusion

9. Therefore, I find that with reference to the PPG, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. Consequently, an award of costs is not justified in this case and the application is refused.

Sarah Manchester

INSPECTOR