



Costs Decision

Site visit made on 29 May 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2024

Costs application in relation to Appeal Ref: APP/W4325/W/24/3336327 18 Oak Avenue, Upton CH49 4NL

- 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 Neil Maher for a full award of costs against Wirral Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for 5No four bed detached houses with construction of new access to highway.
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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 PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters, such as providing information that is shown to be manifestly untrue or inaccurate, or deliberately concealing relevant evidence. It also includes substantive matters, such as 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, or failure to provide evidence to substantiate the reasons for refusal.
4. The applicant submits that a full award of costs is justified as it is suggested that the Council acted unreasonably in reaching its decision on the planning application due to difficulties encountered during the application process, relying on an inapplicable policy, vague and unclear reasons for refusal and the length of time taken to issue a decision.
5. I note the appellant's concerns regarding the Council's handling of the case, including whether the application would be heard at the planning committee. It is however clear from the adopted scheme of delegation that where an application is recommended for refusal it can be determined under delegated powers and does not need to go before the planning committee.
6. In my main decision I have found that Policy HS10 and SPG10 do not apply to the appeal scheme but also that the Council have not referred to them in the reasons for refusal and that the descriptors of development have not been conflated with policy. The reason for refusal as set out in the Council's decision notice is complete, precise, specific and relevant to the application. It also

clearly states the policies of the Unitary Development Plan that the Council considered the proposal would conflict with. These reasons have been adequately substantiated by the Council in its appeal statement which demonstrates how they considered the proposal would be harmful to the character and appearance and biodiversity of the area.

7. The previous appeal was for an outline consent with all matters reserved. The Inspector found that the appeal site was capable of accommodating five dwellings, although the details of access, appearance, landscaping, layout and scale (the reserved matters) were not considered. Costs were awarded against the Council with regard to the use of policy HS10. The current application was for a full planning permission and I note that the Council had regard to the previous appeal when processing and deciding the application.
8. I have had regard to the sample emails and timeline of discussions of the case between the parties. Although the timeframe for determining the application was protracted, I do not consider that the Council unreasonably delayed the process. Whilst I appreciate that the appellant does not agree with the outcome of the application, the Council did not behave unreasonably.
9. Consequently, the matter was one of a fundamental disagreement between the parties which could have only been resolved by way of an appeal. As such unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, an award of costs is not justified.

H Senior

INSPECTOR