



Costs Decision

Site visit made on 13 June 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2024

Costs application in relation to Appeal Ref: APP/W1525/W/23/3335751 116 Maldon Road, Danbury, Chelmsford, Essex CM3 4RA

- 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 James Barnes, Sunbury (Country Homes) Ltd for a full award of costs against Chelmsford City Council.
 - The appeal was against the refusal of planning permission for demolition of existing residential dwelling and replacement with four dwellings with associated car parking and private amenity space.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. The PPG advises that cost awards may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
3. The PPG states that examples of unreasonable behaviour by local planning authorities can include lack of co-operation with the other party or parties. The applicant states that the Council exhibited unreasonable behaviour by refusing to agree to an extension of time, which would have enabled the submission of new information in the form of plans and documents during the determination period.
4. Whilst it may be good practice, the Council is under no obligation to grant a request for an extension of time to determine a planning application to allow additional information. I understand that this would have been frustrating for the applicant. However, in this case it seems to me that the new information would not have overcome all of the Council's reasons for refusal, notably those relating to character and appearance and living conditions of neighbouring occupiers.
5. Therefore, even if the applicant had an opportunity to address some of the Council's concerns during the determination of the application, it would have been refused for the other reasons set out in the Council's appeal documentation. Given the above, the applicant would have needed to appeal against the decision of the Council anyway to gain permission for the development (or submit a further application to the Council).

6. The applicant sets out that the Council's position in respect of the proposal's effect on the character and appearance and the living conditions of neighbouring properties was unreasonable, illogical and not supported by evidence. Specifically, this relates to the Council's assessment that the height of the proposed buildings would be excessive and not reflective of the properties around them, and that the proposal would harm the perception of openness and spaciousness for neighbouring occupiers, whilst causing overshadowing to Hyde House.
7. The PPG indicates that local planning authorities will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate each reason for refusal.
8. Issues that relate to character and appearance and the effect on living conditions often involve matters of judgement. The Council's Decision Notice sets out the reasons for refusal, which are complete, specific and relevant to the development proposed, and which detail the alleged harm and relevant local and national planning policies that the Council allege the proposal conflicts with.
9. Within the officer report the Council has clearly identified the elements of the design which they consider harmful to the character of the area and living conditions. The Council's appeal statement of case clearly articulates their concerns and demonstrates a reasonable exercise of planning judgement. Whilst I have not agreed with all of the Council's analysis in relation to these refusal reasons, they nonetheless produced clear reasoning backed up by reference to current planning policies. Consequently, they were not unreasonable in coming to that decision.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for costs is refused.

B Pattison

INSPECTOR