



Costs Decision

Site visit made on 20 August 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Costs application in relation to Appeal Ref: APP/R1010/W/24/3337881 Westwood House, Church Lane, Tibshelf, Alfreton DE55 5NW

- 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 Ms Gemma Binch for a full award of costs against Bolsover District Council.
 - The appeal was against the refusal of planning permission for installation of a raised platform for horsebox parking, a gravel/hardstanding area and timber post and rail fencing.
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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 applicant's claim, in short, is that the Council has based its decision on 'gross misinterpretations' of case law and planning practice which it is argued were designed to undermine the applicant's legitimate right to retain the development. This includes affording no weight to statutory declarations submitted in support of the appeal.
4. The Council in response states that the applicant's evidence does not establish whether the site falls within the same planning unit or forms part of the curtilage of Westwood House, and that even if it were, the development would not benefit from any permitted development rights under Class A¹.
5. As I set out in my main decision, it was beyond the scope of the appeal to determine matters of lawfulness, these being properly assessed under an application made under Sections 191 or 192 of the Act. However, the evidence provided by the applicant in relation to the past use of the land and planning history is capable of being a material consideration in the determination of the appeal. The weight to be afforded this evidence is a matter of planning judgement for the decision-maker.
6. In this case, it was the applicant who first raised matters relating to incidental/ancillary use, curtilage and the planning unit in the appeal statement. The Council's officer report does not raise such matters but

¹ Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order (2015) (as amended)

assessed the application for planning permission against the development plan, as required by law.

7. In its evidence, the Council has provided reasoning to explain the weight it has afforded to the applicant's evidence, including responding to arguments surrounding lawfulness, continuous use, curtilage, incidental use and permitted development rights. It will be seen from my own decision that I did not find these to be matters of such weight as to be determinative of the overall decision. Therefore, whilst my overall conclusions differ from those of the Council, I have not found evidence of unreasonable behaviour in how the Council determined the application or conducted itself at appeal.
8. Moreover, given the planning judgement required of me in determining the appeal, it is not the case that the Council refused development that clearly should have been permitted. Therefore, the appeal was not unnecessary but for the Council's actions, and it did not involve the applicant in unnecessary or wasted expense.

Conclusion

9. For these reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated, and an award of costs is not justified. No award is therefore made.

K Savage

INSPECTOR