



Costs Decision

Site visit made on 17 December 2024

by **K Winnard LL.B Solicitor (Hons)**

an Inspector appointed by the Secretary of State

Decision date: 07 January 2025

Costs application in relation to Appeal Ref: APP/R0660/D/24/3348291

Strawberry Field Barn, Brindley Grange Farm, Holmes Chapel Road, Brereton CW11 1SD

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Peter Bates for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for a two storey side extension at Strawberry Field Barn.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 makes reference to the Planning Practice Guidance and the examples of behaviour which may give rise to an award of costs against a local planning authority. Unreasonable behaviour can relate to procedural matters (i.e. the application process) or substantive matters (i.e. issues relating to the planning merits of the appeal).
4. In seeking an award of costs, the agent for the applicant refers to substantive matters in relation to the determination of the application. In particular that the Council has ignored the planning history of the site and failed to assess the application in accordance with the Council's own guidance and to make generalised assertions as to the proposal's impact. Therefore the Council undertook an inaccurate assessment of the development which led to the refusal of planning permission. In addition, the Council failed to take opportunities to engage with the appellant throughout the determination process.
5. The applicant considers that the Council acted unreasonably in changing its position from a previous planning application¹ as to its assessment of the total floorspace of the 'original building'. As can be seen from my main decision, I have concluded that the Council did assess the application accurately. Be that as it may, on the information before me, the Council did not advise the appellant of its change of position in relation to the assessment of the 'original building'. In my view given that the appeal scheme was a revision of the previous scheme, it would have been

¹ 23/3694C

appropriate for them to do so. However it seems to me that the Council would have refused the proposal regardless given their concerns as to the design and scale of the proposal.

6. The applicant indicates that the reasons for refusal are generalised and unsubstantiated and that the Council has failed to take account of its own guidance contained in Extensions and Householder Development Supplementary Planning Document (SPD) July 2008. However the Council refers in its delegated report to the scale and design of the proposed extension in relation to the host dwelling and area. Whilst no specific reference is made to the SPD, the officer report does explain the reason for refusal in more detail. Having assessed the proposal, it was not unreasonable for it to refuse planning permission if it concluded that the development conflicted with the Development Plan and there were no material considerations to outweigh this. This was a matter of judgement.
7. Unreasonable behaviour can only result in an award of costs if unnecessary or wasted expense has occurred. I am satisfied that in this case the Council did give proper consideration to the proposed development in reaching its decision in the context of the Development Plan. I also consider it unlikely that the Council's decision would have been different had the Council better engaged with the appellants on this issue. As such an appeal was therefore likely to follow and the costs associated with the appeal would still have been necessary.
8. Whilst I sympathise with the applicant over the lack of communication with the Council, I do not find that the applicant incurred unnecessary or wasted expense as found in the PPG. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore the application for an award of costs is refused.

K Winnard

INSPECTOR