



Costs Decision

Site visit made on 15 November 2012

by Mrs Zoë Hill BA(Hons) MRTPI DipBldgCons(RICS) IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 February 2013

Costs application in relation to Appeal Ref: APP/A0665/A/12/2179308 Land Off Ashton Lane, Ashton Hayes, Near Chester

- 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 Equity Housing Group Ltd for a full award of costs against Cheshire West & Chester Council.
 - The appeal was against the refusal of planning permission for 15 No. affordable houses.
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Decision

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

Reasons

2. The costs application and subsequent response were both submitted in writing. Further comment from the applicant on the Council's response was also submitted in writing.
3. Circular 03/2009 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 or wasted expense in the appeal process.
4. Paragraph A22 explains that the most common examples of unreasonable behaviour concern non-compliance with procedural requirements or failure by the planning authority to substantiate a stated reason for refusal of planning permission. Paragraph B16 of the Circular is also relevant. It sets out that reasons for refusal should be complete, precise, specific and relevant to the application. It also explains that planning authorities will be expected to produce evidence at appeal stage to substantiate each reason for refusal with reference to the development plan and all other material considerations. In this case the applicant explains that they consider that the Council has misinterpreted its policy as the policy cited (HO 12) requires the development to be in keeping with the character of the settlement. As such, the whole settlement should be assessed, not just part of it.
5. The reason for refusal refers to the development resulting in 'a dense form of residential development in a prominent location at the entrance to the village' and that it 'would be out of keeping with the character of this rural site'. I find that this reason for refusal is precise and specific so that the nature of the Council's concern is clear. Furthermore, the Council substantiated its concerns in its appeal statement which refers to the character of the village and does not misapply policy HO 12.

6. Paragraph B18 explains that appeals often involve matters of judgement to do with character but that they should be supported by evidence about the consequences of the proposed development. I am also mindful of paragraph B20 which explains that planning authorities are not bound to accept the recommendations of their officers. If officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. I reiterate that this evidence was provided in the Council's statement.
7. In this case, despite the officers' report in support of the scheme, and although the concerns set out by the authority are done so briefly, the Council's concerns are clear and substantiated. I have considered the matters raised by the reason for refusal (siting, density, scale, layout and design) along with the appellant's whole settlement assessment and have concluded that the scheme would be harmful and conflict with policy HO 12. I concur with the views expressed by the Council and local objectors that the appeal proposal is not acceptable. Thus I do not find that unreasonable behaviour has arisen that has put the appellant to unnecessary expense.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has not been demonstrated and the application for an award of costs is therefore refused.

Zoë Hill

Inspector