



Costs Decision

Site visit made on 20 October 2017

by **Timothy C King BA(Hons) MRTPI**

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

Decision date: 16 November 2017

Costs application in relation to Appeal Ref: APP/X1925/W/17/3177669 Wootton Cottage, Payne End, Sandon, Herts SG9 0QU

- 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 Mrs Georgina Adamson for a full award of costs against North Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for a '3 bedroom, 1 and ½ storey detached dwelling.'
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Decision

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

Reasons

2. Paragraph 030 of the government's planning guidance advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. One of the two main points put forward by the applicant in this costs application is her belief that the Council, in refusing planning permission for the above scheme, acted inconsistently after having recently granted permission for new residential development nearby. In this regard, two separate planning permissions are cited; a 3-bed house fronting Dark Lane (Ref 15/01020/1) and 2 x 3-bed houses on the opposite side of Payne End (15/02255/1). Both sites adjoin the curtilage of Moss Rose Cottage, a Grade II listed building. Another planning permission, for several dwellings, apparently granted permission in 2008, pre-dates the National Planning Policy Framework (the Framework) and, due to its age, I consider it of little relevance.
4. Although I can understand the applicant's grievance in this respect, there are material differences in the above development proposals and that of the current appeal scheme. First, neither of the two nearby sites, unlike the dwellings on the north side of Payne End, lie within the Sandon Conservation Area. Second, the appeal dwelling would be sited on significantly higher ground due to the topography of the land. I have not been supplied with plans relating to either of the schemes for which the Council had previously granted planning permission, although Drawing No PL.210, submitted with the application at appeal, does show the footprints of the approved dwellings. From my site visit, I noted that, although the land starts to rise eastwards the flank wall of the nearest of the two new semi-detached dwellings would be

- considerably distanced from the facing wall of Moss Rose Cottage. The single dwelling around the corner would be similarly distanced and on level ground.
5. I have not been provided with the case reports relating to the above decisions and, therefore, any indication of why the Council itself felt that planning permission should be granted in both instances. However, it is not for me to revisit these decisions and apply comment or reassessment. Instead, the appeal turned on the lack of detail and supporting illustrative information which, given the heritage assets involved - the conservation area location and the proximity to the setting of the listed building - one could have reasonably expected to refer to. The proposed dwelling would be sited on elevated ground and their frontages would almost face one another, yet no Heritage Statement was produced to aid the decision maker as to any resultant impact.
 6. The applicant's second point relates to advice within the Framework. Paragraph 49 thereto comments that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. The applicant has indicated that the Council is unable to demonstrate this and the Council has not disputed this assertion. However, although paragraph 14 goes on to say that where the development plan is out-of-date planning permission should be granted, this is subject to stated provisos. Firstly, any adverse impacts of doing so should not significantly and demonstrably outweigh the benefits and, secondly, that specific policies in the Framework do not indicate that development should be restricted. On these points my reasoning was predicated on the potential impact to the designated heritage assets. This reflected the view of the Council.
 7. I note the applicant's assertion that the Council did not act on its earlier advice and failed to enter into any dialogue as to its intention to refuse planning permission. However, the Council is not bound by any pre-application advice given and it is ultimately a matter for an applicant or agent to promote their own development proposals.
 8. For the reasons given above I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the planning guidance, has not been demonstrated. I therefore refuse the application for an award of costs.

Timothy C King

INSPECTOR