
Costs Decision

Site visit made on 2 September 2014

by Richard Clegg BA(Hons) DMS MRTPI

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

Decision date: 18 November 2014

Costs application in relation to Appeal Ref: APP/D2320/A/14/2218539 Land east of Hilfred, Crosse Hall Lane, Chorley, Lancashire, PR6 9AN

- 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 G and Mr N Dugdale for a full award of costs against Chorley Council.
 - The appeal was against the refusal of planning permission for four detached dwellings with garages and a new means of access from Crosse Hall Lane.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that 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.
3. The Appellant argues that the highways objection to the proposal was based on an inaccurate assertion of the impact of the development which was unsupported by evidence. It is true that, in its consultation response to the planning application, the Highway Authority stated that there were no highway objections to the proposal in principle. However the Authority also made clear that, as a minimum requirement to ensure safety and sustainability, passing places should be provided, the bridleway improved, and a bus stop upgraded. A condition to secure these works was suggested, but if these works could not be provided it was recommended that approval of the scheme be resisted. The Highway Authority's objection to the proposal was reiterated in its appeal statement.
4. The severity of impact is not dependent upon the size of the proposal or the amount of traffic generated. Also of importance is the nature of the road leading to the site. Both the Council and the Highway Authority have clearly explained the inadequacies of Crosse Hall Lane, describing its restricted width and the lack of footways. The Council also points to the restricted visibility at the canal bridge. Due to the nature of this section of road there is concern about conflict between road users. I share the view of the Council and the Highway Authority about Crosse Hall Lane, and the arguments advanced by the Council provided a respectable basis for the highways objection. For these reasons, I do not consider that the Council behaved unreasonably in respect of its highways objection to the proposed development. The Council's decision to

refuse planning permission did not prevent development which should clearly have been permitted.

5. The reasons for refusal made reference to the need for affordable housing and the upgrading of a bus stop. The proposed development is below the thresholds in Policy 7 of the Core Strategy for the provision of affordable housing. Although the size of the site was reduced, thereby coming below the threshold of 0.5ha, given the layout of the proposal and the constraint on development imposed by the nature of Crosse Hall Lane, this has not been an artificial arrangement, contrary to the intentions of the Central Lancashire Affordable Housing Supplementary Planning Document.
6. Insofar as the bus stop is concerned, upgrading to quality standard would be likely to encourage the use of public transport, but it would be disproportionate for the development to meet the full cost of this work, when the bus stop serves a much wider area. I have found that both these provisions of the planning obligation are not compliant with the CIL Regulations, and having regard to paragraph 16-049 of the PPG it was, therefore, unreasonable for the Council to promote them.

Conclusion

7. I conclude that the Council behaved unreasonably in pursuing planning obligations relating to affordable housing and the upgrading of a bus stop, and that this caused the Appellant unnecessary expense in addressing these matters at appeal stage. Accordingly a partial award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Chorley Council shall pay to Mr G and Mr N Dugdale the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in respect of the planning obligations concerning affordable housing and the upgrading of a bus stop.
9. The applicant is now invited to submit to Chorley Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Richard Clegg

INSPECTOR