
Costs Decision

Site visit made on 20 February 2017

by Veronica Bond LLB (Hons), Solicitor (non-practising)

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

Decision date: 6th March 2017

Costs application in relation to Appeal Ref: APP/D0121/W/16/3160755 8 Mayfair Avenue, Nailsea BS48 2LR

- 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 Porthurst Ltd for a full award of costs against North Somerset Council.
 - The appeal was against the refusal of planning permission for erection of two new dwellings and associated works comprising new access, hardsurfaced driveway and turning area and the erection of two car ports.
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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 basis for the appellant's costs application is essentially that the Council: acted contrary to professional officer advice; has not provided evidence or objective analysis to substantiate its reasons for refusal, which were based upon vague, generalised and inaccurate assertions; and acted unreasonably in refusing permission.
4. The decision of the Council was taken contrary to the recommendation of the Planning Officer and advice from the Highways Department. This does not though render its decision automatically unreasonable and indeed the Council is not bound to follow its officer's recommendation. I have also found against the Council in respect of both main issues but again this does not necessarily mean any unreasonable behaviour on the part of the Council.
5. Turning then to the first reason for refusal, matters of character and appearance involve a degree of subjective assessment. The Council set out in its statement its analysis relating to the character of the area including reference to the prevailing pattern of development and plot sizes. As regards the accuracy of the Council's comment relating to bungalows, whilst there are other bungalows in the area, the Council's comment seems to relate to the housing types immediately surrounding the garden at 8 Mayfair Avenue. Thus, as regards this main issue, the Council provided objective analysis in support of its refusal reason and has not made vague, generalised and inaccurate assertions.

6. As to the reason for refusal relating to highway safety, it was not inappropriate for the Council to take into account local concerns relating to parking as local knowledge would no doubt be of some benefit in this regard. In its statement, the Council makes some detailed comments relating to the difficulties of parking and manoeuvring in Mayfair Avenue, along with an indication of on street parking limitations in Ash Hayes Drive. The link is not though successfully made such as to objectively justify why a small increase in on street parking would cause any real highway safety issues. This is particularly so bearing in mind relatively low traffic speeds and volumes, especially in Mayfair Avenue.
7. The Council has therefore acted unreasonably in failing to properly substantiate its highway safety reason for refusal. With regard to wasted expense though, issues relating to highway safety were raised in representations from third parties. Accordingly, the appellant would have had to address these matters in any event. There is thus no wasted expense incurred in representations relating to highway safety.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that an award of costs is not justified.

Veronica Bond

INSPECTOR