
Costs Decision

Site visit made on 13 February 2017

by B Bowker Mplan MRTPI

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

Decision date: 15 March 2017

Costs application in relation to Appeal Ref: APP/T3745/W/16/3163849 15 Morton Street, Leamington Spa, Warwickshire CV32 5SY

- 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 Stella Brotherston for a full award of costs against Warwick District Council.
 - The appeal was against the refusal grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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Decision

1. The application for an award of costs is refused for the reasons given below.

Reasons

2. The National Planning Practice Guidance (PPG) 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.
3. The PPG also advises that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. Other examples include not determining similar cases in a consistent manner and preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material consideration.
4. The appellant contends that the Council have failed to provide evidence to substantiate its reason for refusal, that its case is vague and generalised and does not take into account the lack of objection from the Highway Authority. Furthermore, it is contended that the Council has handled parking related matters inconsistently with reference to a nearby proposal recently subject to an appeal decision¹. Consequently, it is considered that the Council's unreasonable behaviour has resulted in wasted and unnecessary cost for the appellant in having to appeal the decision and submit a costs application.
5. The Council's case for refusing planning permission rests on comments from the Highway Authority which refer to a high level of demand for on-street parking in the area, and objections from the Town Council and four local

¹ APP/T3725/W/16/3153778

residents. At this point, the Council indicate that no evidence was submitted to the contrary and therefore the application was refused. The comments from the Highway Authority indicate parking availability in the area but identify high parking demand in the locality and note this could be an issue for neighbouring amenity. Whilst I have taken a different view, based on these noted factors, in particular comments from the Highway Authority (a Statutory Consultee), I consider that the Council had a reasonable case to refuse permission.

6. I agree with the appellant that the Council's application of planning policy could have been made clearer. Also, the way in which the Council now applies its Vehicle Parking Standards Supplementary Planning Document following changes to national policy is, in my view, unreasonable. My accompanying decision has also taken account of the recent and nearby appeal decision in the appellant's favour. However, in any event, the factors outlined in the above paragraph gave the Council a reasonable basis to withhold permission. Thus in this respect, unnecessary or wasted cost has not been incurred by the appellant in having to appeal the decision.

Conclusion

7. Therefore, I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated for both cases. For this reason, and having regard to all matters raised, an award for costs is not justified.

B Bowker

INSPECTOR