

Costs Decision

Site visit made on 24 January 2017

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

Decision date: 03 April 2017

Costs application in relation to Appeal Ref: APP/B1930/W/16/3159662 Townsend Drive, St Albans, Hertfordshire AL3 5AB

- 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 Beechcroft Developments Ltd for a full award of costs against St Albans City & District Council.
 - The appeal was against the refusal of planning permission for the demolition of existing buildings and the construction of four blocks consisting of 26 three bedroom, 16 two bedroom and 6 one bedroom dwellings and flats with associated landscaping.
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Decision

1. The application 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 officer's recommendation in the Council's committee report was that planning permission should be granted. It is entirely within the remit of Members to come to a different view from that of its professional officers. In these circumstances, the PPG states that an authority is expected to produce relevant evidence on appeal to support its decision.
 4. Although I have come to a different view on the merits of the proposal, it does not follow that unreasonable behaviour occurs. The Council has identified the large size and mix of the units as encouraging greater number of residents and car use. It has also indicated that the Planning Inspectorate model condition would allow for occupiers of age less than 55 to reside provided that they satisfied the 'household' link. Greater propensity to have more than one car for younger households has been evidenced through census data. As a result, the Council has substantiated its reason for refusal and has detailed the harm of additional car parking on the character and appearance of the area and the safety of highway users by reason of indiscriminate parking or nuisance parking.
 5. The Council considered that a more restrictive condition seeking to prevent any occupiers aged below 55 was not achievable having regard to Article 8 of the European Convention on Human Rights (ECHR) (The right to respect for private and family life) and Article 1 of the First Protocol of the ECHR (the protection of property). There was conflicting arguments between the parties over this
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issue, with the Council stating that there would be implications for future occupiers due to changed circumstances that could lead to family ties being broken up. Having considered both viewpoints including the applicant's Counsel's Opinion, there is interpretation and judgement involved here especially when taking into account the particular circumstances of this proposal.

6. The Council has acknowledged that the skewed test under bullet point 4 of paragraph 14 of the National Planning Policy Framework should apply. Whilst it has not specifically detailed this test in its statement of case, it has identified conflicts with development plan policies and that the lack of parking was a fundamental issue. Indeed, it identifies the reasons for refusing planning permission as clear and unequivocal. For these reasons, its overall decision-making approach to dealing with the issues is not unreasonable. As to the Council's suggested condition on age occupancy, this would be without prejudice to its arguments.
7. For all these reasons, the Council has not produced vague, generalised or inaccurate assertions about the proposal's impact. There has been objective analysis and the reason for refusal has been substantiated. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated.

Jonathon Parsons

INSPECTOR