
Costs Decision

Site visit made on 10 April 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 22 May 2017

Costs application in relation to Appeal Ref: APP/D0121/W/17/3166406 43 Beechmount Close, Weston-Super-Mare BS24 9EX

- 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 'Partnerships in Care' for a full award of costs against North Somerset Council.
 - The appeal was against the refusal of planning permission for the change of use from a residential dwelling (C3) to an office and storage (B1) associated with the use of the adjacent rehabilitation facility.
-

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 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 application for costs is made with respect to the substantive issues raised within the reasons for refusal. The planning application was refused contrary to professional officer's recommendations made within a comprehensive report that was discussed at the Council's Planning and Regulatory Committee on 14 September 2016.
 4. The members of the committee were not bound to accept the recommendation of their planning officers. However, the PPG makes it clear that an aim of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case and not to add to development costs through avoidable delay.
 5. The positive recommendation of the Council's planning officers did not indicate that there was a particularly fine balance between the factors for and against the proposal. In such circumstances, where the committee goes completely against their professional officers' recommendations, I would expect details about what was discussed to warrant going against the recommendation. Subsequent correspondence including the Council's letter to the appellant of 11 October 2016 indicates that there had been a lengthy debate at the committee. The minutes are however minimal and do not indicate the nature of the debate or what possible impacts upon the character of Beechmount Close from the
-

proposed use were of particular concern to Councillors. There is no indication either about whether Councillors considered if planning conditions could overcome their concerns.

6. The Council did provide a statement of case. This sets out the general nature of the concerns and also referred to an appeal relating to a similar nature of development in a different part of Weston-Super-Mare. This appeal indicates that such changes of use can sometimes be problematic in terms of the impact upon the character of an area. However this was not sufficient in itself to indicate that planning permission should be refused on the merits applicable in this case. The statement did not provide substantial evidence that the commercial use of the building would be harmful.
7. Councillor Bryant also provided a written statement in support of the Council's case. This explains that residents are concerned about the existing use of The Copse but does not help to demonstrate that the proposal would make any such problems worse.
8. In rebutting this application, the Council correctly states that Councillors are entitled to refuse an application contrary to the professional recommendation where they consider that a proposal would be contrary to the development plan. Even so, the PPG is clear in explaining that it is necessary to produce evidence to substantiate reasons for refusal that stand up to scrutiny on appeal. This was not satisfactorily achieved and the statement provided vague and generalised assertions about the impact of the proposal contrary to the advice in the PPG. It is not clear what influence individual Councillors had on this situation which was a collective decision.
9. The appellants were advised by professional consultants through the entire processing of this appeal. This appeal process has therefore lead to the incurring of their fees.
10. I consider that the refusal of planning permission was not well founded. Unreasonable behaviour resulting in the unnecessary and wasted costs as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

11. 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 North Somerset Council shall pay to Partnerships in Care, the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to North Somerset 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.

A Harwood

INSPECTOR