
Costs Decision

Site visit made on 25 April 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 7th June 2017.

Costs application in relation to Appeal Ref: APP/B3438/W/17/3168607 Land Adjacent 3 Meadow Drive, Cheadle, Staffordshire

- 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 Steve Swann of Wrekin Housing Trust for a full award of costs against Staffordshire Moorlands District Council.
 - The appeal was against the refusal to 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 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 PPG makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted, fails to produce evidence to substantiate each reason for refusal or makes vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
 4. The applicant claims that the development should have been approved, having regard to paragraph 32 of the National Planning Policy Framework, as the Council has not demonstrated through objective analysis that the impact of the development would be severe.
 5. The planning officer's report to the planning committee stated that the use of Meadow Drive to serve the site is acceptable and remains the preferred option of the Local Highways Authority. Also, it was advised that the appellant's Transport Assessment clearly demonstrates that Meadow Drive is capable of accommodating the additional traffic movements generated by the redevelopment of the site without detriment to other highway users or without compromising pedestrian safety. I appreciate that the Council is not obliged to accept the recommendations of its professional officers. However, there must be reasonable planning grounds if professional or technical advice is not followed, and this should be supported by evidence.
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6. Whilst the Council's Highway Statement does seek to justify the decision taken by the Council, it does not challenge the traffic data contained in the appellant's Transport Assessment. Furthermore, it is accepted that the traffic generation from the development would be limited. The Highway Statement contains very limited quantitative evidence to demonstrate the severe congestion that is described in the decision notice. The photographs submitted as evidence are undated and their locations are unclear.
7. I disagree with the Council's statement that its concern about congestion through a residential area does not lend itself to quantitative assessment. It would be possible to undertake traffic counts, assessments of parking levels and queue lengths in the vicinity of the site at peak times and throughout the day. This would have strengthened the Council's case. Also, as set out in my Decision, the Council has not advanced any technical reasons why the proposed alternative access would be unacceptable, or demonstrated that the local road network could not accommodate the increase in traffic.
8. Although I have dismissed the appeal for other reasons, I found that there was insufficient evidence to demonstrate that the access would be unsafe and that the development would have an adverse impact on highway safety, which formed the basis of the Council's sole reason for refusal. If the Council had taken into account the evidence before it, and resolved to grant planning permission, the required deed of variation in relation to the Section 106 planning obligation could have been agreed and permission granted in a timely manner. As it stands, the Council has delayed development which should have been permitted.
9. I conclude that the Council has behaved unreasonably in refusing the application for reasons of highway safety, contrary to the advice of the Highways Authority and professional planning officers. The Council has failed to produce evidence supported by objective analysis to substantiate the reason for refusal. This has caused the applicant to incur unnecessary expense in making the appeal.

Costs Order

10. 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 Staffordshire Moorlands District Council shall pay to Mr Steve Swann of Wrekin Housing Trust, 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.
11. The applicant is now invited to submit to Staffordshire Moorlands District 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.

Debbie Moore

Inspector