
Costs Decision

Site visit made on 6 June 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 06 July 2017

Costs application in relation to Appeal Ref: APP/P0119/W/17/3168713 Rawlings & Sons Bristol Ltd, Cecil Road, Kingswood, Bristol BS15 8NA

- 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 Sovereign Housing Association for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of planning permission for demolition of the existing building and erection of 29 flats with associated car parking and landscaping.
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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 parties in planning appeals should normally meet their own expenses. However, 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 advises that an award of costs against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It makes clear that a local planning authority is required to behave reasonably in relation to both of these elements and provides examples of unreasonable behaviour for both¹. The application was made in writing and therefore there is no need to rehearse the detailed points made.
4. The main thrust of the applicants case is that in deciding to refuse the application contrary to the Council Officers' recommendation, the Council prevented or delayed development which should clearly be permitted and took into account vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, it cited irrelevant policies within the reasons for refusal and that it has not been consistent in its decision making.
5. In this case I have noted the recommendation of the Council's Officers. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this case, the Council's Senior Engineer in

¹ Paragraph: 047 Reference ID: 16-047-20140306 and Paragraph: 049 Reference ID: 16-049-20140306

Transportation concluded that the degree of on-site parking proposed was adequate in a highly accessible location given the level of car ownership in Kingswood, the proximity of public car parks to the appeal site and some limited on-street spaces. Yet little evidence has been put forward by the Council to support the first reason for refusal and establish how any additional on-street parking in the vicinity of the appeal site would create or exacerbate congestion. Furthermore, the alleged harm to highway safety or the living conditions of nearby occupiers has not been substantiated with any evidence. I consider that the Council has behaved unreasonably in this respect.

6. In relation to the second reason for refusal, whether the accessibility to public open space mitigates for the lack of on-site amenity space is a matter of judgement and I do not consider that the Council's evidence which explained the reasons for the Council's stance was materially deficient in its reasoning. I acknowledge that the applicant considers a Ward Councillor has made vague, generalised and inaccurate assertions including at the Committee meeting where the planning application was determined.
7. However, the Council has confirmed that the Ward Councillor is not a member of the Development Control Committee that made the decision. The Committee Minutes show that there were a number of speakers at the meeting for and against the proposal. Members of the Committee also made a site visit and had the Officer's Report before them. I acknowledge that not all of the Members attended the site visit and that the Officer's Report did not include walking times to the public open spaces. However, whilst I appreciate that the outcome of the application will have been a disappointment to the applicant the Council did not behave unreasonably by taking into account vague, generalised and inaccurate assertions on the basis of the information before me.
8. The applicant considers that the Council have cited policies within the reasons for refusal that are irrelevant. Even though I have concluded that Policy CS17 of the South Gloucestershire Local Plan: Core Strategy is not relevant to the second reason for refusal the Council did explain why they considered this policy was relevant. In relation to Policy T12 of the South Gloucestershire Local Plan I have found that the Council have not substantiated the first reason for refusal. However, that policy is relevant to the issues raised in that reason for refusal. Consequently, I do not consider that the Council acted unreasonably in this respect.
9. Turning to consistency in decision making. I acknowledge the Council has permitted other schemes that involved on-site parking that did not meet the guidelines within the Council's 'Residential Parking Standards' Supplementary Planning Document and an amount of on-site amenity space that did not meet the requirements of emerging Policy PSP43 of the South Gloucestershire Local Plan Policies, Sites and Places Plan. Whilst I do not have the full details of those schemes, consideration of planning applications and appeals involves matters of judgement which at times are finely balanced, with different site circumstances, local representations and other material considerations. I consider therefore, it was not unreasonable of the Council to permit developments in other parts of the local authority area which may have had some similarities to the appeal scheme.
10. In conclusion, I find that the Council did substantiate the second reason for refusal and the use of the policies associated with the reasons for refusal. I do

not consider that the Council acted unreasonably by taking into account vague, generalised or inaccurate assertions in relation to the second reason for refusal. Neither was it unreasonable of the Council to permit developments in other parts of the local authority area which may have had some similarities to the appeal scheme. On that basis I do not consider a full award of costs is justified as the decision as a whole was not fundamentally unsound. However, in accordance with paragraph 49 of the PPG the Council did act unreasonably by its failure to produce evidence to substantiate the first reason for refusal.

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

12. 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 on that behalf, IT IS HEREBY ORDERED that South Gloucestershire Council shall pay to Sovereign Housing Association the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in defending arguments relating to the provision of off-street parking.
13. The applicants are now invited to submit to South Gloucestershire 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

D. Boffin

INSPECTOR