
Costs Decision

Site visit made on 31 July 2017

by Rachel Walmsley BSc MSc MA MRTPI

Decision date: 30 August 2017

Costs application in relation to Appeal Ref: APP/J1860/W/17/3172076

1 The Three Nuns, Colletts Green Road, Powick WR2 4SB

- 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 New River Retail Trustee No.7 and New River Retail Trustee No.8 for a partial award of costs against Malvern Hills District Council.
 - The appeal was against the refusal of planning permission for demolition of outbuilding and erection of convenience store (A1) incorporating ATM with associated parking, landscaping, access arrangements and plant on land at the Three Nuns Public House.
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Decision

1. The application for a partial award of costs is refused.

Procedural matter

2. The costs application before me is an application *for a full or alternatively a partial award of costs*. On consideration of the application and the concerns raised I have considered the application for costs as one for a partial award based on details relating in large to matters of planning substance.

Reasons

3. I have considered this application for costs in light of the Planning Practice Guidance (PPG). 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.
4. Under Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, local planning authorities are required to *state clearly and precisely their full reasons for the refusal specifying all policies and proposals in the development plan which are relevant to the decision*. The Council's evidence, including the decision notice, explains why the proposal would be contrary to policy. In doing so the Council states the policies it considers relevant and references the evidence which supports its concerns. This approach is taken for all reasons for refusal.
5. Although the Council took a decision contrary to the advice of its professional officers, this was not done without justification. Whilst the Council's reference to the comments received from the Highways Authority is brief, it explains with

appropriate justification and on reasonable planning grounds why it considers the application contrary to the advice of the Highways Authority.

6. With specific reference to pedestrian access the Council's reasoning draws a weak link between limited footpath provision, a lack of street lighting and pedestrian and vehicular conflict. Nevertheless, a link is made between these concerns and supported with references to planning policy. Overall, the Council's concerns on this matter are clear, as is the reasoning for the proposal being contrary to policy on this matter.
7. The Council considered it necessary for the development to meet the maximum car parking standards. In doing so it explains why, not least because of the rural nature of the site and the lack of footpaths. I do not accept, therefore, that the Council imposed its parking standards erroneously and as an absolute requirement.
8. Altogether, therefore, I find that the Council substantiated its reasons for refusal, based on the evidence before it, and had appropriate regard to government policy and its own adopted policies in making its decision on the planning application.

Conclusion

9. I have found that unreasonable behaviour relating to the Council's decision did not result in unnecessary or wasted expense in the appeal process. I therefore conclude that a partial award of costs, towards the expense of the appeal, is not justified.

R Walmsley

Inspector