



Costs Decision

Site visit made on 6 November 2017

by Rachel Walmsley BSc MSc MA MRTPI

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

Decision date: 13th November 2017

**Costs application in relation to Appeal Ref: APP/T3725/W/17/3179904
135 Warwick Road (including rear builders yard), Kenilworth,
Warwickshire CV8 1HY**

- 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 Trengerren Ltd for a full award of costs against Warwick District Council.
 - The appeal was against variation of condition 1 on planning permission W/15/0620 to allow changes to the design of the houses and apartments, the access road to the private drive, the bin store location and the parking layout.
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Decision

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

Reasons

2. 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.
3. When refusing a planning application, the Council is required to state clearly and precisely their full reasons for refusal, specifying all policies and proposals in the development plan which are relevant to the decision. In refusing the planning application the Council clearly set out their concerns for the development proposed and related this to the policies in the development plan as well as referencing the National Planning Policy Framework (the Framework). In addition, the Council explains its concerns further in a Statement of Case. I do not concur with the appellant, therefore, that the Council refused the application on the basis of a vague assertion.
4. I note that, with the exception of the decision notice, reference is not made to the Framework. The Council is required to determine a planning application in accordance with the development plan and any material considerations. The weight attached to a material consideration is a matter of judgement for the decision-maker. The Framework constitutes a material consideration and having referenced it within the reason for refusal, the Council could have benefited from explaining their concerns in relation to this in its Statement of Case. However, this omission does not imply that the Council made a vague, generalised or inaccurate assertion about the development's impact; as

discussed, the Council clearly set out its concern and supported it with reference to the development plan.

5. Whilst the Council did not provide any technical evidence to support its concerns, evidence was provided to justify its claims, not least with reference to access widths and Manual for Streets. The Council did not, therefore, fail to produce evidence to substantiate its reason for refusal.
6. Therefore, in light of my findings I do not find that the actions of the Council constitute unreasonable behaviour.

Conclusion

7. I have found that the actions of the Council did not constitute unreasonable behaviour and therefore did not result in unnecessary or wasted expense in the appeal process. I conclude that a full award of costs, towards the expense of the appeal, is not justified.

R Walmsley

Inspector