

Appeal Decision

Site visit made on 31 October 2017

by D Cramond BSc MRTPI

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

Decision date: 16 November 2017

Costs application in relation to Appeal Ref: APP/N1160/D/17/3181456 30 Ridge Road, Plympton, Plymouth, PL7 1UF

- 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 John Keating for an award of costs against Plymouth City Council.
 - The appeal was made against the refusal of an application, Ref 17/0959/FUL, which sought planning permission for a double garage with office space above.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (guidance) advises that, 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. The Appellant considers that there has been unreasonable behaviour by the Council in determination of the proposal. The Appellant argues that the application was refused despite accordance with the development plan, national guidance and any other material considerations. The case is put that there is inaccurate assertion based upon an earlier appeal decision. The decision by the Council overly relied on a planning condition in the appeal decision limiting the number of caravans and mobile homes places and that there was a failure to consider anything else on its merits at the site. The argument is put that the original condition was simply to limit the number of people at the site and nothing more. There cannot be a blanket ban on development and the Council should have made an analysis of the development plan and proceeded with the normal considerations for a planning application.
 4. The Appellant underlines that the delegated report touches on the merits of the case and notes various factors which would not be harmful. The report is overly selective about planning history locally and makes no reference to permission which has been given "next door" to the appeal site for two houses and the Council has missed the point about this approval changing the context. There inconsistency in decision-making. Matters have moved on since the original appeal and this should have been considered by the Council.
 5. The Appellant feels that reference to the development plan clearly demonstrates that this application complies with the relevant policy and that
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the decision was based on an obtuse assessment with no legitimate basis to the facts of the case. The refusal reason does not provide a clear and unambiguous explanation of how the development is in conflict with policy CS34. The refusal is not clear; it is vague and ambiguous and is therefore representative of unreasonable behaviour in the Appellant's opinion.

6. In response to the Appellant's claims, the Council indicates that the scheme was assessed in relation to the adopted Plymouth Local Development Framework Core Strategy and the emerging Plymouth and South West Devon Joint Local Plan. The Council acknowledges that the application was found to be compliant in some areas, such as impact on neighbour amenity. The Council in referring to planning permission being granted for a neighbouring site took this to mean 28, Ridge Road, another traveller's site, which was granted consent as part of the same group of appeals that saw approval given for the site at no. 30 Ridge Road. The Council argues that the resulting refusal, the subject of this case, was informed by the planning history and the Inspector's decision but was rooted in the adopted LDF Core Strategy Policy CS34.
7. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full or, indeed, partial, award of costs.
8. In my opinion neither the officer's report nor the Decision Notice are particularly well crafted. It is regrettable that so much attention is paid to a condition on the site's previous appeal decision (APP/N1160/A/09/2118869) which is somewhat historic and arguably only partly directly related to the case in hand. Albeit this condition does show that care needs to be exercised in the consideration of development on this rural site. Furthermore whilst the permission for two homes cited by the Appellant is not immediately abutting or necessarily directly relevant to final determination it is valid context and would have given a more complete picture if it had been addressed in the report. I also agree with the Appellant that there could have been more analysis of what, in development plan terms, is the main crux of determination – the issue of character and appearance in this rural locality.
9. Nevertheless the latter matter is touched on and in my opinion the Council does just save the day by its references to Policy CS34 of the City of Plymouth Local Development Framework 2007 (LDF) both in the officer's report and with the Reason for Refusal. The former makes it clear that the Council considers there would be breach of parts 3 and 4 of this policy e.g. matters pertaining to landscape, local environment, compatibility with surroundings, and physical factors such as scale.
10. I am conscious that determinations of many planning applications are, of necessity, matters of judgement rather than empirical evidence or science. The Council has provided a respectable background for the refusal reason and I consider that its explanation was sufficiently complete for the Appellant to be able understand and seek to counter the issues. Indeed the Appellant has clearly and rightly picked up that the main policy for determining this proposal is LDF Policy CS34; noting that this is highlighted in the decision notice and noting that within CS34 there are 10 criteria to satisfy of which 2 are relevant to the proposal. There is thus no doubt from the Appellant about what should be the centre of debate and what is the main issue between the parties. The refusal is not obtuse.

11. I appreciate an appeal process is time and fee consuming. However the Council has given reasons for the judgement it reached and the decision notice is sufficiently lucid, and stemming from the report which leads up to it, to enable one to class it as not inconsistent or irrational.
12. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR