
Costs Decision

Site visit made on 13 November 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 27th November 2017

Costs application in relation to Appeal Ref: APP/R3325/W/17/3180083 5 Wyndham Street, Yeovil BA20 1JJ

- 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 Gerrard Matthews of Matthews Properties Ltd for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for extension to existing A5 hot food takeaway.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant is seeking a substantive award of costs with reference to paragraph 049¹ of the PPG, on the grounds that the Council's refusal reasons were vague and generalised and unsupported by any objective analysis to demonstrate why expert advice from professional consultees was overridden.
4. There were no objections to the proposal from the Highway Authority, or from the Council's highway consultant or Environmental Protection Unit. However, the case officer was not obliged to accept this advice, provided that relevant evidence could be provided on appeal to support a contrary decision.
5. The decision to refuse planning permission was taken having regard to the appellant's own trading figures, which show that there has been a steady growth in orders over the past decade. Whether the proposal would facilitate a continuation of this trend and the consequent effects on highway safety and residential amenity are primarily matters of planning judgement. At times such considerations can be finely balanced.
6. Although I have not found in favour of the Council, the decision to refuse was based on a rational and coherent line of argument. Specific evidence in the form of photographs was provided at the appeal stage in order to illustrate the particular concerns regarding illegal parking on Wyndham Street.

¹ Reference ID: 16-049-20140306

7. Overall, I am satisfied that the Council has met its obligation to give proper consideration to the application and has adequately substantiated its decision to refuse planning permission with evidence. I therefore consider that the Council has not been shown to have behaved unreasonably. Thus the appellant's costs in mounting the appeal were not unnecessarily incurred. For this reason, an award of costs is not justified.

Robert Parker

INSPECTOR