
Costs Decision

Site visit made on 4 December 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2018

Costs application in relation to Appeal Ref: APP/R3325/W/17/3180420 Coker Firs, 141 West Coker Road, Yeovil BA20 2HH

- 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 and Mrs Barry Delves for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for removal of existing garage and construction of a detached single dwellinghouse.
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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 application for an award of costs is made with reference to paragraph 049 of the PPG and is predicated on the claim that the local planning authority has prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other material considerations.
4. The application was refused despite an earlier proposal for a single dwelling on the site having been granted planning permission. The schemes are described by the appellant as being "almost identical in appearance". Whilst I would agree that they are similar, there are material differences in terms of the position of the dwelling within the plot and its scale and design. The Council was entitled to consider each scheme on its merits.
5. The appeal plans show the new dwelling closer to the boundary with 2a Nash Lane in comparison to the previous scheme. It would also be noticeably wider when viewed from 2 Nash Lane. Whether this would adversely affect the living conditions of neighbours is a matter of planning judgement. The fact that I have concluded that the development would not be overbearing does not make the Committee's decision unreasonable.
6. The Council provides scant evidence in relation to its concerns on the effect of the proposal on the character and appearance of the area. It does not adequately explain the nature of the adverse impacts or the reasons why this

particular scheme is more harmful than the previous one which was approved. That there has been a change in development plan policy does not in itself provide justification, especially since the old and new policies are substantively similar in requiring new development to respect its context. The Council's failure to properly substantiate its objection constitutes unreasonable behaviour.

7. However, in order to make an award of costs I must be satisfied that unreasonable behaviour has caused another party to incur unnecessary or wasted expense. I am not persuaded that an appeal would have been avoided, given the Council's concerns regarding the effect on the living conditions of neighbours. The appellant's evidence on character and appearance issues would therefore have been needed to rebut objections from local residents. As such, its preparation did not incur unnecessary or wasted expense in the appeal process.
8. To conclude, whilst the Council did behave unreasonably, the applicant's costs in mounting the appeal were not unnecessarily incurred. For this reason, an award of costs is not justified.

Robert Parker

INSPECTOR