
Costs Decision

Site visit made on 9 October 2018

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2018

Costs application in relation to Appeal Ref: APP/M3455/W/18/3204480 48 Birches Head Road, Stoke-on-Trent ST1 6ND

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Brooks of Pegasus Development for a full award of costs against Stoke-on-Trent City Council.
 - The appeal was against the refusal of planning permission for a Proposed Change of Use from C4 to 7bed Sui-Generis.
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Reasons

2. 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 the party applying for costs to incur unnecessary expense in the appeal process.
3. The application essentially relies on the fact the Council Officers recommended that planning permission be granted for the proposal, but that the Council Members took a different course of action without adequate reason to do so.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. It is appreciated that the outcome of the application will have been a disappointment to the applicants. Despite the application being recommended for approval by the Council's Officers, Council Members took a different view and the application was refused. Council Members are not however duty bound to follow the advice of the Council Officers and are entitled to come to a decision against the officer's recommendation. In addition, the planning decision is a matter of judgement.
6. Turning first to the matter of impact of the proposed development on parking demand, Council Members were entitled not to accept the professional advice of Officers, considering the acknowledged acute parking problem. Subsequent to the refusal the Council cited the City of Stoke on Trent Parking Standards Policy Document (2016), the application of which the Council and Applicant have opposing views on. Nevertheless, I find that the Council should have been

more thorough in its quantification of the increased parking demand, and the policy basis of that, at time of refusal.

7. In regard to the matter of character and appearance of the area, the proposal was found to be contrary to Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, adopted 2009 (CS). However, no substantive evidence or reasoning was put forward by the Council in regard of this matter.
8. Accordingly, it will be evident from my decision that I do not agree with the Council that there were sufficient grounds for refusing planning permission on the grounds stated. Regarding impact on parking demand, the Council has partially failed to provide evidence to substantiate this part of its reason for refusal. In regard to impact on the character and appearance of the area, the Council has failed to provide evidence to substantiate this reason for refusal.
9. As a result it follows that the Council has acted unreasonably in this case. As such the Applicant was put to unnecessary and wasted expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Stoke-on-Trent City Council shall pay to Mr Brooks of Pegasus Development the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the parts of the Council's reason for refusal which concerned parking demand character and nature of the area.
12. 16. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

William Cooper

Inspector