
Costs Decision

Site visit made on 17 June 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2019

Costs application in relation to Appeal Ref: APP/P1805/W/19/3224313 All Saints Garage, 127-137 Birmingham Road, Bromsgrove B61 0DN

- 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 Bromsgrove District Housing Trust for a full award of costs against Bromsgrove District Council.
 - The appeal was against the refusal of 19 no. 1 bedroom apartments, car parking, external works and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that costs may 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 costs application essentially relies on the fact that the Council has failed to provide evidence to substantiate its case and has made assertions without justification which was unsupported by objective analysis. It also claims that the Council has consequently prevented and delayed development which should have been permitted. The applicant also contends that the Council failed to properly take into account the benefits of the scheme, such as the delivery of affordable housing, or the effect of failing to have a 5-year housing land supply.
4. Notwithstanding the advice of professional Officers, Council Members were entitled to recognise the highway issues that may arise from the proposal, particularly as this was a concern in comments raised locally on the application. Also, the merits of the case and importance attributed to them are not in themselves grounds for an award of costs.
5. However, the manner in which the decision was justified, and the evidence submitted in support of the Council's case post decision are pertinent matters. In this case, Planning Committee Members came to a view that the impact of the proposal would outweigh the benefits, resulting in on-street parking where there are already parking problems and a scale of development that was harmful to the character and appearance of the area.
6. The Council has explained that the application was determined in a timely way and that officers had acted in a positive and proactive manner. Furthermore,

Members undertook a site visit and had sight of the conservation officer's comments which were balanced. The minutes also reflect that Members took into account the benefits of the scheme, most importantly the need for affordable housing. They were therefore fully cognizant of the facts of the case. Furthermore, the Council's Statement of Case clearly set out a detailed explanation as to its concerns. I am consequently satisfied that Members properly considered the proposal and did not behave unreasonably in reaching their own conclusions on the application. I am also satisfied that the Council properly explained its concerns with adequate evidence.

7. Although, I have reached a different conclusion to the Council in respect of the effect of the proposal, I am convinced that Council Members properly assessed this matter objectively on the basis of the evidence provided to them. Whilst the Council's concerns were not sufficient to dismiss the appeal, I do not consider that the Council's decision was so fundamentally flawed or without foundation as to represent unreasonable behaviour.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Ben Plenty

INSPECTOR