



Costs Decision

Site visit made on 9 September 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2019

Costs application in relation to Appeal Ref: APP/Q3305/W/19/3230478 Central Stores, Stoke Hill, Stoke St Michael, Shepton Mallet BA3 5JJ

- 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 The Estate of Michael J Wright for a full award of costs against Mendip District Council.
 - The appeal was against the refusal of planning permission for outline planning for a single dwelling (resubmission).
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Decision

1. The application for costs is refused.

Reasons

2. National Planning Practice Guidance (the Guidance) advises that, 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 appeals process.
3. The Guidance further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally, the Guidance is clear that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
4. The appellant states that the Council acted unreasonably on the basis that members of the planning committee departed from the professional advice of Officers and refused the application based on unsubstantiated assertions.
5. Authorities are not bound to accept the recommendations of their officers, but if their professional or technical advice is not followed, then reasonable planning grounds for taking a contrary decision need to be provided.
6. With regard to the Council's first reason for refusal, these matters are, to a certain extent, subjective. It is evident from the committee minutes that the Councillors took the views and experiences of local residents into account in concluding that the proposal would have prejudicial effects on highway safety.
7. The junction has partial visibility in one direction for which the splay is adequate only based on the recorded 85th percentile speeds which is not generous and requires particular caution. Whilst I have reached a balanced judgement in favour of the appellant, it is not unreasonable that the committee exercised reasonable planning judgement and departed from the officer's professional advice in these regards.

8. The effects of the proposal on the character and appearance of the area is also a subjective judgement and the characteristics of the site and its proximity to designated heritage assets are such that the potential impacts may also have been difficult to visualise from the indicative plan submitted. I acknowledge that the Council was capable of requisitioning matters such as scale, layout and appearance to be considered at the outline stage, and that this approach may not have followed that used in respect of other outline proposals, but the increased sensitivity of the site owing to its proximity to designated heritage assets may have contributed to a greater degree of caution being exercised in this case. As such, I consider that it was also reasonable for the members of the committee to have exercised planning judgement in reaching its views in this regard.
9. In conclusion, I find that it has not been demonstrated that the Council behaved unreasonably in determining the appeal and that the appellant's costs in mounting the appeal were not unnecessarily incurred. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Hollie Nicholls

INSPECTOR