
Costs Decision

Site visit made on 14 October 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 November 2019

Costs application in relation to Appeal Ref: APP/N1160/W/19/3233178 Land at St Annes Road, Plymouth PL6 7LW

- 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 S Larson for a full award of costs against Plymouth City Council.
 - The appeal was against the refusal of planning permission for the erection of 4 bed detached dwelling with integral garage, parking and amenity areas.
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Decision

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

Procedural matter

2. The Council's response to the application indicates that they did not receive the appellant's appeal statement. The appellant accepts that this may have been the case and, accordingly, does not claim costs on the basis that the Council did not provide an appeal statement in response to the grounds of appeal.

Reasons

3. The Planning Practice 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.
4. The Council's officer report indicates that the proposal would be acceptable in respect of highway safety and would provide an adequate level of parking provision for the existing uses and proposed dwelling. The report also indicates that the proposed layout of the site would be acceptable.
5. The Council has suggested that no appeal statement has been prepared as the lack of statement from the appellant meant that there was no challenge to the reasons for refusal. It is not always necessary to provide a bespoke appeal statement if the Council's concerns can be fully understood from the other evidence and reasons for refusal. However, given the positive advice of the Council's officers to its members about the scheme, including the lack of objection from the Highway Authority other than in respect of the bus shelter, the lack of a statement in this case means that there is no technical support for the first reason for refusal.
6. Whilst there is extensive evidence from interested parties regarding the current use of the car park, potential effects on highway safety and convenience, I have found no substantive evidence that harm would arise as a result of their

concerns. Therefore, whether or not the Council was aware of the full details of the appellant's case, the lack of any robust evidence to substantiate the harm alleged in the reason for refusal amounts to unreasonable behaviour.

7. The second reason for refusal that alleges that the development would be over intensive is somewhat vague and generalised. Indeed, as set out in my main decision, it is not clear what harm is alleged to occur as a consequence of the intensity of the development, only that it results from its layout, massing and siting within the context of the area.
8. With regard to those concerns raised by neighbouring residents in terms of living conditions and the effect on the character and appearance of the area, I have found that no tangible harm would arise. Therefore, whether or not the second reason was justified in the context of an earlier decision for a similar development at this site, that found no harm in that regard, I find that the second reason for refusal lacks substance.
9. The reasons for refusal are based upon alleged conflicts with development plan policies that do not give unqualified support for the proposal. Whether or not those policies are complied with requires judgement against the various criteria in question. However, there is a lack of robust support for the reasons for refusal, which run contrary to the Council's main body of evidence in the officer's report. For the reasons set out in my main decision, I find that permission should be granted. An appeal could have been avoided and so the appellant has been put to unnecessary expense in the appeal process. As this costs decision turns on the Council's defence of the main issues and reasons for refusal, the necessity of the condition concerning the relocation of the bus stop has no bearing on my findings.
10. Whilst planning committees are not bound to follow the advice of their officers, and the committee was faced with a number of issues to balance and attribute appropriate weight to, decisions should be based upon robust evidence. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full 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 Plymouth City Council shall pay to Mr S Larson, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Plymouth City 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.

M Bale

INSPECTOR