



Costs Decision

Site visit made on 30 September 2019

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th December 2019

Costs application in relation to Appeal Ref: APP/D1780/W/19/3233152 Rileys American Pool and Snooker, Church End, Southampton SO15 3JE

- 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 M Meisels of Parnoso Limited for a full award of costs against Southampton City Council.
 - The appeal was against the refusal of planning permission for replacement of existing former Snooker Hall with 22 self-contained flats with associated refuse and cycle storage and landscaping (resubmission).
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Decision

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

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 PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant has applied for costs on the basis that the reason for refusal lacks any reasonable merit and as such demonstrates unreasonable behaviour by the Council's Planning Committee.
5. In this case the Council's Officers recommended approval but the Council Members did not accept the recommendation. The decision is one which is a matter of judgement. While the Members are not duty bound to follow the advice of their professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
6. The Members took a different view to that of their officers in respect of the provision of family housing; the contemporary design of the building and its effect on the character and setting of the locally listed building and the established character of the area; and the effect of providing no parking on the living conditions of nearby neighbours. The decision notice also set out that the failure to enter a S106 legal agreement meant the proposal failed to

mitigate against its direct impacts. The reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. The decision notice also clearly cites the relevant development plan policies against which the scheme was found to be in conflict. The Council provided an appeal statement which set out a detailed justification for the Members' decision.

7. The scheme was refused because it failed to respect the area's character, not on the basis that the contemporary design in itself was unacceptable. This approach is consistent with the advice set out in paragraph 131 of the National Planning Policy Framework.
8. Members wish to support the provision of family housing and sought to justify that within the Council's appeal statement. They also accepted that the scheme could not support a contribution towards affordable housing. Whilst I came to a different view on the basis of the submitted evidence, I do not find that the Council's behaviour has been unreasonable in this respect.
9. Members are permitted to give more weight to the views of local residents than those of the highway officer, which were primarily concerned with highway safety. In defending its decision, the Council made it clear that the objection related to the amenity of residents rather than highway safety. It therefore did not behave unreasonably, particularly as there was no substantive evidence to demonstrate that the additional demand for on-street parking would not cause problems for local residents.
10. The Council provided details to support the requirements for the various contributions that they sought through a planning obligation. The applicant failed to provide a completed agreement and I was therefore unable to take it into account in reaching my decision.
11. The reference in the Council's decision notice to section 9 of the Council's Residential Design Guide Supplementary Planning Document 2006 which related to waste management was not relevant to the consideration of parking provision. However, the Council has accepted this was an error. Whilst this was unfortunate, a minor error of this nature does not constitute unreasonable behaviour.
12. I am satisfied that the Council has substantiated each of its reasons for refusal and provided objective analysis of the proposal's impact. I am therefore satisfied that the Council acted reasonably in refusing the application and the applicant has not incurred unnecessary or wasted expense in the appeal process.

Conclusion

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Rachael Pipkin

INSPECTOR