



Costs Decision

Site visit made on 27 January 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th April 2020.

Costs application in relation to Appeal Ref: APP/Y1945/W/19/3239315 19A Garston Park Parade, Watford WD25 9LQ

- 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 Ms Leah Schupper of YSL Properties Limited for a full award of costs against Watford Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for change of use from office B1 to residential C3 comprising 1 x 1 bed and 1 x studio flat.
-

Decision

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

Reasons

2. Planning Practice Guidance 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 case essentially rests on four grounds. Firstly, the Council refused to work with the applicant and proceeded to refuse the scheme despite compliance with the National Planning Policy Framework (the Framework). Secondly, the Council's concerns relating to highway safety are not justified, given that the area is subject to a controlled parking regime. This amounts, in the applicant's view to the assertions of the Council being unsupported by any objective analysis. The third ground asserts that the Council has acted unreasonably on account of issuing a decision without considering the use of a condition to overcome the alleged harm. Finally, the Council, in refusing to grant permission acted contrary to well-established case law.
4. Paragraph 109 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Notwithstanding, my decision, the Council's assessment was based on what they considered to be inadequate parking and space arrangements on the site and the resultant pressure to park on what they have assessed as the congested surrounding roads. The Council's officer's report has indicated that the Framework's transport considerations formed part of their assessment. The Council carefully took account of parking arrangements together with the availability of on-street parking opportunities but believed that together these would not be adequate to meet the needs of

the proposal and would in turn result in unacceptable impacts on highway safety. The fact that the Council have reached a different conclusion to mine in this case does not amount to unreasonable behaviour.

5. On the second ground, the Council contend that the area surrounding the appeal site is not within a Controlled Parking Zone (CPZ). My site visit has also confirmed this to be the case as I saw no specific signs in the streets surrounding the appeal site indicating that the area was subject to a CPZ.
6. The PPG advises¹ that when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. They must also comply with tests set out in the Paragraph 55 of the Framework and be only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
7. The Council's view was that the parking area within the appeal site could not accommodate the parking spaces it considered necessary for the residential units within the building and that the shortfall could not be accommodated on the surrounding streets. Notwithstanding the amended parking layout which I have considered acceptable as part of my own assessment and my imposition of a parking condition, the Council believed that the site constraints were such that the required off-street parking provision would be unlikely to be met. At the time of their consideration, there was no evidence in the form of submitted drawings to indicate that such provision would be possible, and the Council was confronted with the appearance of a constrained and restricted site. Given this, I do not consider the position they took at that time could be deemed unreasonable.
8. With regard to the appellant's final ground, I have had regard to the development plan which may be relevant in prior approval cases, but only insofar as they relate to the matters. In this case the Council have referred to the parking standards in its development plan policy in assessing whether the development would satisfy paragraph O.2 (a) relating to transport and highways impacts of the development. In doing so I do not consider that the Council acted unreasonably.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.

R. E. Jones

INSPECTOR

¹ Planning Practice Guidance, Paragraph 001 Reference ID:21a-001-20140306