
Costs Decision

Site visit made on 15 June 2020

by Jonathan Hockley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2020

Costs application in relation to Appeal Ref: APP/J3720/W/19/3239944 Garage court on land south of Castle Road, Castle Road, Alcester B49 6BQ

- 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 Mixed Up Ltd for a full award of costs against Stratford-on-Avon District Council.
 - The appeal was against the refusal of planning permission for the demolition of all existing garages and construction of four dwellings, creation of associated parking area and all other associated works.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) states that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive.
3. The costs application was based on various concerns which centred on two main grounds; (i) that the Council prevented or delayed development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and (ii) they made vague, generalised or inaccurate assertions about a proposal's impact, unsupported by any objective analysis.
4. The sole development plan policy referred to by the Council in their decision notice was policy CS.9. While this policy is not considered forensically in the Council Officer's report, it is clear from reading the report the various concerns that the Council have with the scheme are design based and as such the scheme, in their view, did not accord with this policy. This is clearly stated in the report and in the reason for refusal.
5. The benefits of the scheme are recognised in the Council report. This acknowledges that the principle of development is acceptable, that the design of the dwellings themselves is in character and describes the extant permission on the site. The Council report also details their concern over the orientation of the dwellings in contrast to the extant consent, a view I have agreed with in my decision. The suggestion of a 'pinch point' may be slightly misleading while using the reference to keeping vehicle speeds low but the report clearly acknowledges the lack of objection from Highways Officers and confirms that

there are no issues with highway matters, so it is clear it is a design issue as opposed to a highway safety issue.

6. In my decision I have considered that given the circumstances for the case that the issue of bin collections was not significant. However, the Council detail in their Officer report and their appeal statement their reasons for considering otherwise given the larger scale of the application over the extant scheme.
7. Concern is also raised over the Council not accepting revised plans and a subsequent change in potential CIL payments. However, while I have chosen to accept the plans it is clear from the Council's appeal statement that they consider that the amended plans in any event did not overcome fundamental design concerns; indeed, this is acknowledged in the applicant's submission. I further note that costs can not be claimed for the period during the determination of the planning application. On the evidence provided to me it appears that the Council behaved reasonably throughout the planning process.
8. I have concluded that the refusal of the application was in accordance with the relevant development plan policy and that material considerations did not indicate that planning permission should have been granted, and that the Council supported their refusal of the application at the appeal stage. I do not consider therefore there are grounds for a substantive award against the Council.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Jon Hockley

INSPECTOR