
Costs Decision

Site visit made on 23 September 2020

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Costs application in relation to Appeal Ref: APP/C3430/W/20/3251267 Fieldfare, Cock Lane, Bednall ST17 0SD

- 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 J Shaw for a partial award of costs against South Staffordshire Council.
 - The appeal was against the refusal of planning permission for replacement dwelling.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) 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.
3. Paragraph 049 of 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. Whilst the Council is not duty bound to follow advice of its 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. In this case, the Planning Officer's Committee Report had not raised any objections to the proposal in terms of adverse effects on living conditions of the occupiers of The Cottage. The Committee Report specifically indicates that there is a separation distance of 24 metres between the proposal and The Cottage, and that the proposal would not give rise to any unreasonable loss of privacy or daylight. The alleged harm to living conditions has not been substantiated other than by means of a vague assertion that the positioning, height and footprint would overshadow and result in loss of light to The Cottages' south side facing windows.
5. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the proposal should reasonably have been permitted. The

refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

6. I therefore conclude that a partial award of costs, to cover the expense incurred by the appellant in contesting the Council's second reason for refusal, is justified.

Costs Order

7. 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 South Staffordshire Council shall pay to Mr J Shaw the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the Council's second reason for refusal, which concerned alleged harm to the living conditions of the occupiers of The Cottage.
8. The applicant is now invited to submit to the 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.

Chris Baxter

INSPECTOR