
Costs Decision

Site visit made on 16 November 2020

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 December 2020

Costs application in relation to Appeal Ref: APP/F0114/W/20/3256544 Avon Farm, Avon Lane, Saltford BS31 3ET

- 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 Clive Franklin for a full award of costs against Bath & North East Somerset Council.
 - The appeal was against the refusal of planning permission for change of use of a former office building to a dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. The basis of the application is that the Council:
 - a) Failed to produce evidence and justification to substantiate the reasons for refusal, which were contrary to the advice of their professional planning officers;
 - b) Made vague, generalised and inaccurate assertions in respect of any harm caused; and,
 - c) Failed to take into account compliance with local and national policy and thereby prevented development that should have been permitted.
4. The PPG indicates that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal on appeal, or if they make vague, generalised or inaccurate assertions about a proposal's impact, which are not supported by any objective analysis. The applicant claims that, in departing from the Planning Officer's advice, the Council failed to explain why the site was in an unsustainable location, relying instead on an inaccurate assertion that its position outside a development boundary made it so.

5. Whilst the Council's decision did not follow its Planning Officer's recommendation, it was made in accordance with the expert advice that it received from its highway consultee. This advice related both to the sustainability of the location, and the suitability and safety of the access to the site. Although the applicant asserts that the highway officer's concerns were exaggerated, it was not unreasonable for the Council to give significant weight to the consultation response from the statutory highway authority.
6. The highway authority provided an appeal statement in support of the Council's decision, which covered both aspects of the reason for refusal. The statement provided detailed evidence of the distance from the site to the services in the village, and the reasons why the route would fail to give priority to pedestrian movements. In my decision, I concluded that occupants of the proposed dwelling would be mainly reliant on the use of private vehicles to obtain essential goods and services, which would be contrary to the aims of Policy ST1 of the Bath and North East Somerset Placemaking Plan (the Placemaking Plan), which seeks to promote sustainable travel. I therefore found the evidence provided by the Council in support of this element of the refusal to be compelling.
7. The highway authority's statement also included a reasoned argument to explain why it considered the access to the site to be unsafe and unsuitable for all users. This included measurements of the dimensions of Avon Lane, and an analysis of the location and widths of pavements in Mead Lane and High Street. Reference was also made to government advice in Manual for Streets, which advises against road widths, such as those in Avon Lane, that may result in conflict between cars and cyclists. This evidence provided sufficient justification to substantiate the reasons for refusal.
8. The PPG indicates that local planning authorities are at risk of an award of costs, if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan and national policy. The applicant claims that the Council did not give sufficient weight to the development's compliance with Policy RE6 of the Placemaking Plan, or the advice at paragraph 109 of the National Planning Policy Framework (the Framework), which indicate that permission should have been granted.
9. In my decision, I concluded that the development did comply with Policy RE6 of the Placemaking Plan, but that it was in conflict with Policy ST1. These policies, to some extent, pull in different directions. On balance, I concluded that the proposal was in accordance with the development plan when read as a whole. However, this was a planning judgement, and it was not unreasonable for the Council to balance the policies differently.
10. Paragraph 109 of the Framework says that development should only be prevented or refused on highway grounds where there would be an unacceptable impact on highway safety. The Council was advised by its highway consultee that this would be the case. I concluded in my decision that Avon Lane is not suitable for high volumes of traffic, and that Mead Lane and High Street do not provide a safe and suitable route for pedestrians to access the village centre. Ultimately, though, I concluded that the development would not result in a significant increase in vehicle or pedestrian movements, so the impact on highway safety would not be unacceptable. It was not, however,

unreasonable for the Council to come to a different view, given the advice it received from its highway consultee.

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Nick Davies

INSPECTOR