



Costs Decision

Site visit made on 23 February 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Costs application in relation to Appeal Ref: APP/X3405/W/20/3263022 Avon Road SW, Avon Road, Cannock WS11 1LH

- 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 Vodafone Ltd for a full award of costs against Cannock Chase District Council.
 - The appeal was against the refusal of prior approval for 12.5m pole with 3no antennas, 1no GPS module, 2no Hercules cabinets.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) indicates 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. Examples of unreasonable behaviour by Local Planning Authorities are set out in Paragraph 049 of the PPG.
4. The applicant states that the Council acted unreasonably as they based the decision on what may happen in the future, instead of considering the scheme in front of them at that time, and made that decision regarding matters that are dealt with under separate legislation.
5. The Council argues that the protected tree has potential to grow more than 5m taller than the proposed mast, and it is reasonable for the Council to consider the proposed pressures the mast would have on the protected tree. The tree report submitted by the applicant did not address the long-term effects on the tree. It is accepted that it is inappropriate to make decisions based on speculation but it is not speculative that a tree of that species in good health will grow to its full height. It is considered by the Council that the tree report does not assess the impacts on the protected tree.
6. The Council's reason for refusal is complete, well founded and specific to the application. The reasoning was substantiated by the Council in its officer report and they were entitled to make a planning judgement based on the information in front of them to determine the prior approval application. I do not find the Council's approach to be unreasonable, nor have they unreasonably prevented or delayed the development.

7. I may not agree with the Council's interpretation, it was not an unreasonable position for the Council to take and merely a planning judgement.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour during the process has not been demonstrated by the Council. For this reason, an award for costs is therefore not justified.

Paul Cooper

INSPECTOR