



Costs Decision

Site visit made on 17 August 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2021

Costs application in relation to Appeal Ref: APP/G4240/W/21/3275422 Brookfields, Mossley, Tameside OL5 0LG

- 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 Clements Court Properties Ltd for a full award of costs against Tameside Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for residential development of 21No. family homes and associated works – Amended plan to create temporary construction access from Stamford Road.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (the 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 applicants have stated that the Council have acted unreasonably in determining the application against the recommendation of Planning Officers and the Highway Authority and that the reasons for refusal are unsubstantiated and unjustified. The application was in accordance with policy and the refusal has led to unnecessary expense for the applicants in progressing the appeal.
5. The Council states that the application was considered and assessed against the Development Plan and all considerations were weighed in the planning balance. Not agreeing with the Council on matters of planning judgement does not justify an award of costs. The Council states that there were documented concerns from the Highway Authority in relation to vehicular access to the development, but were mollified with the revised construction access details, subject to third party approval.
6. In this case I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.

7. I find that the Council's reasons for refusal are complete, precise, specific and relevant to the application. It clearly states the policy of the Development Plan and all other relevant matters that the proposal would conflict with.
8. The reason for refusal is adequately substantiated by the Council in the appeal statement, and they have exercised their planning judgement. I agree with the Council that the proposal does not comply with policy and I am satisfied that sufficient consideration was given to the proposal when the planning application decision was made.
9. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The appellant had to address those concerns in any event.
10. Whilst I appreciate that the applicant does not agree with the outcome of the application, the Council were not unreasonable in coming to that decision and there is no evidence to suggest that they have unreasonably prevented or delayed the development.
11. I therefore conclude that for the reasons set out above, unreasonable behaviour during the process has not been demonstrated and for this reason, an award of costs is therefore not justified.

Paul Cooper

INSPECTOR