



Costs Decision

Site visit made on 14 September 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2021

Costs application in relation to Appeal Ref: APP/N1025/W/21/3271965 Land to the west of the Navigation Inn, Risley Lane, Breaston, Derbyshire, DE72 3BP

- 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 Punch Partnerships (PML) Limited for a full award of costs against Erewash Borough Council.
 - The appeal was against the refusal of planning permission for erection of a detached dwelling (Use Class C3) utilising existing public house access, creation of a new access to the public house and reconfiguration of public house car park, and associated parking and landscaping.
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Decision

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

Reasons

2. 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. The appellant submits that the Council has acted unreasonably in respect of each of its reasons for refusal. In this regard, it is contended that the Council has relied upon inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis, and has failed to properly consider all of the relevant information provided. The appellant therefore considers that the Council has prevented development which should clearly have been permitted.
4. The Council's first reason for refusal stated that the development would be out of character and harmful to the appearance of the streetscene. This is supported by an assessment of the building's proposed height relative to the adjacent properties to the south west. That is essentially a matter of planning judgement, and it was not unreasonable for the Council to come to this view.
5. The second reason for refusal stated that the proposed dwelling would have an overbearing effect and would result in overshadowing to No 121 Stevens Lane. In support of this, the Council highlighted that the development would introduce a 2 storey gable wall near to the boundary, on raised land relative to No 121. Moreover, No 121 has a relatively small garden area, much of which is positioned near to the development. The Council has substantiated its position in relation to this matter and it did not act unreasonably in this regard.

6. In terms of the impact of the development on the restoration of the Derby and Sandiacre Canal, there is evidence before me that the former canal towpath occupied part of the appeal site. Moreover, the Derby and Sandiacre Canal Trust submitted a detailed objection to the development. I therefore have a full case before me in relation to this matter, and it was not unreasonable for the Council to refuse permission on this basis.
7. The fourth reason for refusal related to highway safety. In this regard, the development may result in some additional on-street parking in the vicinity on busy occasions. The Council highlights that this is most likely to affect Stevens Lane, which is a relatively narrow route, and that the appeal site is near to the junction with Risley Lane. Whilst I came to a different view, I have a clear justification before me from the Council in support of its position. It did not act unreasonably in reaching that view.
8. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR