



Costs Decision

Site visit made on 25 January 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2022

Costs application in relation to Appeal Ref: APP/J3720/W/21/3281552 Garages adjacent to 27 Leigh Crescent, Long Itchington CV47 9QS

- 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 Bain Developments Ltd for a full award of costs against Stratford-on-Avon District Council.
 - The appeal was against the refusal for the development of land without complying with conditions subject to which a previous planning permission was granted for demolition of existing garages and erection of 3 No. dwellings.
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Decision

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

Reasons

2. 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 sets out the examples of unreasonable behaviour by local planning authorities which includes making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis and preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national and any other material considerations.
4. The application essentially relies on the fact the Council Officers recommended that planning permission be granted for the proposal, but that the Council Members took a different course of action.
5. I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of planning judgement for the decision maker to come to a view on based on the individual merits of the case. Whilst Council Members have taken a different view from that of their officers, they are not duty bound to follow the advice of their officers, provided that there are sufficient planning grounds to come to a contrary view.
6. I appreciate that refusal of the planning application, at the Planning Committee meeting, would have been a disappointment to the appellant. However, based on the information before me there is nothing to suggest that the Council failed to properly evaluate the application or consider the merits of the scheme, including professional and legal representations regarding public access over

the site. Therefore, I find that the Council were not unreasonable in coming to their decision.

7. I have not sided with the Council with regard to the merits of the proposal and 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 development proposed should reasonably have been permitted. However, the reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. Furthermore, the Council has substantiated its position on appeal rather than vague, generalised or inaccurate assertions.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason an award of costs is not justified.

B Thandi

INSPECTOR