
Costs Decision

Site visit made on 24 May 2022

by Helen B Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2022

Costs application in relation to Appeal Ref: APP/E2340/W/22/3291422 Land at Dixon Street, Barrowford BB9 8PL

- 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 MFH Projects for a full award of costs against Pendle Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 2 no.2 bedroom semi-detached bungalows and 2 no. 3 bedroom semi-detached dwellings including private drives and gardens.
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Decision

1. The application for an award of costs is allowed in part in accordance with the terms set out below.

Reasons

2. National Planning Practice Guidance (NPPG) advises that, irrespective of the outcome of the appeal, costs may only 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 applicant submits that the Council has acted unreasonably on two grounds. Firstly, that it has prevented or delayed a development that should clearly have been permitted and secondly, that the Council has made vague, generalised or inaccurate assertions about the proposals impact, in particular that there would be a loss of on street car parking.
4. I note that Council Officers recommended approval of the application but that the Committee Members disagreed and refused permission. They were concerned about the effect of additional vehicles on already narrow and heavily parked streets. This was a legitimate concern as the appeal scheme is materially different to the approved three dwelling scheme on the site, proposing an additional dwelling, with the likelihood of additional traffic. It was open to the Committee to come to a different conclusion to Officers, in light of their local knowledge and having considered all the evidence before them. Whilst I have come to a different view and allowed the appeal, in refusing the planning application, the Council did not, in my view, act unreasonably and prevent a development that should clearly have been permitted.
5. The appeal scheme was refused planning permission due to unacceptable impact on highway safety. In their appeal statement, the Council clarifies that this concern related to two main issues, firstly, as mentioned above, the impact

of additional vehicles on the local highway network and secondly on street car parking.

6. In terms of the second issue, the Officers' report states that adequate on site car parking is provided in the scheme and that the development would not result in a worsening of the existing parking situation. However, the appeal statement states that the proposal would lead to a loss of on street car parking. It is not explained how this would occur. Furthermore, the Council's cost rebuttal does not address this ground.
7. The Council's statement amounts to a vague and generalised assertion about the proposals impact which is unsupported by objective analysis. I therefore find that refusing the application in this respect, constituted unreasonable behaviour. This has resulted in unnecessary and wasted expenditure in respect of the cost of addressing this element of the Council's case.
8. I therefore conclude that a partial award of costs to cover the expense incurred by the appellant in contesting the Council's case with regard to the loss of on street car parking is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Pendle Borough Council shall pay to MFH Projects, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the Council's case with regard to the loss of on street car parking; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Helen Hockenhull

INSPECTOR