



Costs Decision

Site visit made on 24 October 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th November 2022.

Costs application in relation to Appeal Ref: APP/H1840/W/22/3301077 Land Adjacent to Barlwyth Cottage, Hill Furze, Fladbury WR10 2NB

- 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 Mr Rob Newman for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission for erection of garage block to be used in association with planning approval 19/01058/FUL.
-

Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 expense in the appeal process. PPG states that examples of unreasonable behaviour by the Council include failure to substantiate reasons for refusal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; acting contrary to national or local policy; and a lack of co-operation with other parties.
3. The applicant states that the Council behaved unreasonably in that they failed to provide evidence or credible explanation to support their reasons for refusal; failed to give appropriate weight to a statutory consultee; and failed to use planning conditions which could have made the proposal acceptable.
4. The reasons for refusal set out in the decision notice are sufficiently complete, precise, specific, and relevant to the application. The decision notice also clearly states the policy of the South Worcestershire Development Plan (2016), that the Council consider the proposal would be in conflict with. The reasons for refusal were adequately substantiated and justified by the Council in its officer report, which appropriately considered the context. The report set out how, in their assessment, the proposal would result in harm to the character and appearance of the site and surrounding area and would not ensure highway safety, due to insufficient parking.
5. The application decision is one which is a matter of judgement. It can be seen from my appeal decision that I agreed with the Council that there were sufficient grounds for refusing planning permission in regard to harm to the character and appearance of the surrounding area. I did not agree with the Council in regard to the impact of the proposal on highway safety. Despite this,

as the application was also refused on character and appearance grounds, and I have dismissed the appeal on this basis, this matter did not lead to unnecessary expense for the applicant.

6. The Council considered advice from its Highways consultee, and as it is entitled to do, reached a different conclusion. The reasons for this were adequately specified in the officer report. In my appeal decision I reached a different conclusion to the Council regarding highway matters. Regardless of this I have been presented with no substantive evidence that the Council made factual errors or behaved unreasonably regarding this matter.
7. As can be seen from my appeal decision, I considered that a planning condition could have been imposed to ensure the garage block was retained for parking use. However, I also considered that it would not have been appropriate to seek to secure an alternative garage door design under a planning condition. Therefore, my appeal decision concluded that it would not have been possible to use planning conditions to make the proposal acceptable overall. Consequently, it was not unreasonable that the Council did not use planning conditions to seek to make the proposal acceptable and this matter did not lead to unnecessary expense for the applicant.
8. Overall, I am satisfied that the Council has shown that it undertook an appropriate assessment of the application, accurately and adequately substantiated the reasons for refusal in accordance with relevant policy, and engaged appropriately. For the reasons given, I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Helen Davies

INSPECTOR