



Costs Decision

Site visit made on 25 January 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2023.

Costs application in relation to Appeal Ref: APP/Q3305/W/22/3306122 7 Welsford Close, Somerset, Wells BA5 2JE

- 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 Mrs E Hutchinson for a full award of costs against Mendip District Council.
 - The appeal was against the refusal of planning permission for Conversion and change of use of the existing garage to a creative art and play therapy studio.
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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 produce evidence to substantiate reasons for refusal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and refusing planning permission where suitable conditions would enable the proposed development to go ahead.
3. The applicant states that the Council behaved unreasonably in that they did not effectively evidence the stated noise and disturbance and highway impact, particularly in the absence of objection from environmental health or highways. The applicant also states that the Council acted unreasonably in that they should have sought additional information regarding the music element of the therapy activities and could have used planning conditions to overcome identified issues.
4. The reasons for refusal set out in the decision notice are sufficiently complete, precise, specific, and relevant to the application. Regardless of the lack of consultee objection, the reasons for refusal were adequately substantiated and justified by the Council in its officer report. The report sets out how, in their assessment, the proposal would result in harm to neighbour amenity by way of noise and disturbance and result in highway safety issues. Given the nature of the concerns set out by the Council, it was not unreasonable that they did not seek to use planning conditions to make the proposal acceptable.
5. I acknowledge that reference in the officer report to 'odour', 'congestion' and 'visual intrusion' from vehicles is vague and unsubstantiated. Despite this,

these terms do not form part of the reasons for refusal and were not determinative elements of the Council reasoning.

6. The Council are not required to seek additional information during the course of an application and it is the responsibility of the applicant to submit all information and evidence they wish to have considered. As a response to the refusal of permission, the appellant provided additional information and clarification with the appeal regarding the use of music at the site which enabled the Council to reconsider this aspect of the proposal. I do not consider this to be unreasonable behaviour by either party.
7. The application decision is one which is a matter of judgement. It can be seen from my appeal decision that I reached a different conclusion to the Council. I did not find any significant harm to highway safety or the living conditions of neighbours, which could not be managed to an acceptable level by the imposition of conditions. Regardless of this, I have been presented with no substantive evidence that the Council made factual errors or behaved unreasonably in reaching their decision.
8. Overall, I am satisfied that the Council has shown that it undertook an appropriate assessment of the application and adequately substantiated the reasons for refusal in accordance with relevant policy. For the reasons given, despite reaching a different conclusion on the appeal proposal, 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