



Costs Decision

Site visit made on 9 May 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2023

Costs application in relation to Appeal Ref: APP/P0119/W/23/3314238 112 Kings Drive, Stoke Gifford BS34 8RQ

- 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 Patel (Pasha Wealth Ltd) for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of planning permission for change of use from a dwelling (C3 use) to a seven bedroom house in multiple occupation (sui generis use) (resubmission of planning reference: P21/08036/F).
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and so caused the applicant unnecessary expense in the appeal process. This application claims unreasonable behaviour by the Council in terms of (i) failing to provide evidence to substantiate each refusal reason, (ii) making vague, generalised and inaccurate assertions about the impact of the proposal, which are unsupported by any objective analysis, and (iii) preventing development that clearly should have been permitted having regard to the development plan, national policy and other material considerations.
3. The decision to refuse planning permission was made by the Council's Development Management Committee (the committee) against the advice of its officers. The committee is not duty bound to follow officers' advice but it has to clearly demonstrate on planning grounds why a proposal is unacceptable.
4. Refusal reason 1 relates to parking. This is a relevant consideration given the provisions of policies PSP16 and PSP39 of the South Gloucestershire Local Plan Policies Sites and Places Plan 2017 (the LP). The refusal reason correctly identifies that the number of spaces at the appeal site would be below that required to meet the defined standards.
5. However, LP policy PSP16 explicitly allows on-street parking to be considered where there is evidence of availability during evenings and at weekends. The appellant has provided such evidence in the form of a parking survey report. The Council's concern that this survey is inadequate due to its timing is not backed up by its own Parking Survey Technical Advice Note 2022. Also, little evidence is provided to support the assertion that the survey is inaccurate due to students being away from the area during the university recess. Therefore, the Council's concerns in these respects are unsubstantiated.

6. The Council's criticisms of the appellant's evidence rely heavily on uncorroborated and vague claims of a significant demand for street parking, particularly during the academic year. Also, there is no real evidence to show how street parking associated with the appeal development would be detrimental to highway safety or residential amenity as claimed. In the absence of any meaningful explanation or justification, such objections are unfair.
7. The second refusal reason relates to the adequacy of private amenity space to be provided. LP policy PSP43 does not include a particular standard for houses of multiple occupation but this does not negate the requirement for a suitable and private outdoor area. The Council's approach to establishing a minimum garden size for the proposal is explained and is understandable given the standards for other residential properties as set out at LP policy PSP43. It is common ground between the parties that the amount of garden area to serve the proposal would be below the identified minimum requirement.
8. In their recommendation for approval, the Council's officers gave weight to the shortfall in garden area in the event the appeal property is used as a family dwelling. However, the weight to be attributed to this factor is a planning judgment and so the committee are entitled to arrive at a different overall view. My appeal decision explains why I consider this factor does not justify the small garden space as proposed. It follows that the Council has been reasonable in objecting to the proposal in respect of the garden to serve future occupiers. As such, it has not refused planning permission for a development that clearly should have been allowed.
9. However, for the above reasons, I conclude the Council has acted unreasonably in terms of objecting to the proposal on parking grounds. This unreasonable behaviour has resulted in unnecessary work and expenditure for the appellant during the appeal process. A partial award of costs is justified to cover the appellant's expense in contesting the Council's first refusal reason on parking.

Costs Order

10. 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 South Gloucestershire Council shall pay to Mr Patel (Pasha Wealth Ltd), the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the Council's first refusal reason that the development would provide insufficient parking and would increase the demand for street parking to the detriment of highway safety and residential amenity; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. 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.

Jonathan Edwards

INSPECTOR