



Costs Decision

Site Visit made on 1 August 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 June 2023

Costs application in relation to Appeal Ref: APP/P1805/W/21/3289921 Hagley Specialist Cars, 5 Worcester Road, West Hagley, DY9 0LF

- The appeal is made under section 78 of 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 Sharr Homes Ltd against Bromsgrove District Council.
 - The appeal was against the refusal of an application for reserved matters for the erection of 5 no. dwellings following outline planning permission 19/00833/S73 (Matters for approval: design, external appearance, scale and landscaping).
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The application for costs relies to a substantial extent on how the Council reached its decision that the development should be refused.
3. Whilst I appreciate the outcome of the application will have been a disappointment to the applicants, the Council were not unreasonable in coming to that decision from the information they had available to them. I note the concerns that the Council have not given sufficient weight to the outline planning permission. Whilst the extant outline planning permission is a material consideration and does provide an approved layout for the site, the specific design and details of Plot 3, including its appearance and scale, have not been approved with such matters being reserved.
4. I have had regard to the applicant's submission regarding the approved layout. Even if I were to consider the plan to provide more detail than just the layout, it does not provide details of the full design and height of the proposed dwelling at Plot 3. As noted in my main decision, it is the proposed location combined with the depth and height of Plot 3 that would have a harmful impact on the living conditions of the occupiers of No 7 Worcester Road.
5. Accordingly, I do not find that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposal which justified its decision.

Conclusion

6. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Tamsin Law

INSPECTOR