

Costs Decision

Site visit made on 18 January 2024

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Costs application in relation to Appeal Ref: APP/Z1510/W/23/3327618 Land South of Parish Hall, Bures Road, White Colne, Essex

- 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 Clockworklime Ltd for a full award of costs against Braintree District Council.
 - The appeal was against the refusal of planning permission for a proposal described as 'Replacement of existing garage/storage building with building suitable for Class E use'.
-

Decision

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

Reasons

2. Irrespective of the outcome of the appeal, the Planning Practice Guidance (PPG)¹ states that an award of costs may only be made 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. In this instance the applicant alleges a substantive failing by the Council in respect of the decision taken to refuse the proposal.
3. The appellant alleges that the Council's decision was flawed because the increase in height of the appeal scheme would be minor relative to the approved scheme. That may be so, but the Council are clear that it is a combination of factors that resulted in the concerns arising, including the use, plot size and extent of parking. I share the view of the Council that the proposal overall would appear cramped and therefore this aspect of its case was not unreasonable.
4. The Council's decision to refuse the application was not one supported by the Conservation Officer. This does result in a contradiction, as the Council alleged harm to the street scene of Bures Road but not the character or appearance of the Conservation Area, in which the appeal site is located, or its setting. Nevertheless, I do not share the view of the Conservation Officer for the reasons given in my decision. Moreover, a previous Inspector in determining an appeal at the site found harm to the street scene of Bures Road but not the character or appearance of the conservation area.
5. I share the applicant's view that an Office, and the activity flowing from this, could, in principle, be acceptable in a residential area of a settlement as a benign use. However, the Council's concerns relate to the floor area of the proposal relative to the plot size. The provision of an office of the size proposed would require a first floor and thus awkward alterations to the

¹ Paragraph: 030 Reference ID: 16-030-20140306

external appearance of the building and an intensive use of the forecourt in front of it. This would harm the street scene for the reasons given in my decision. The adverse impact would be inherent to the extent of floor space proposed and could not be overcome by imposing conditions.

6. The Council did not refer to any comments from the Local Highway Authority when articulating the second reason for refusal. However, it is not unreasonable for the Council to consider highway safety in the context of applying its own parking standards. The applicant argues that a 'severity' test should be applied with reference to Paragraph 115 of the National Planning Policy Framework, but instead the relevant test is whether the impact on highway safety would be 'unacceptable'. This is a lower bar for the Council to surmount in making its case in respect of parking.
7. The Council's concerns about on street parking were not vague, as they directly related to a lack of parking as supported by the parking standards. However, they did lack evidence e.g. accident records. However, the same can be said of the applicant's case. As a result, I formed a judgment based on the evidence before me. Overall, I found that the appeal would likely result in on street parking close to a junction on a narrow lane, and this presented an unacceptable risk to highway safety. In this respect I share the view of the Council, which was not vague or unreasonable.

Conclusion

8. In conclusion, for the reasons given above I have not found any substantive failing in the Council's decision and therefore unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not occurred. The application for costs is therefore refused.

Graham Chamberlain
INSPECTOR