



Costs Decision

Site visit made on 16 April 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2024

Costs application in relation to Appeal Ref: APP/P1615/W/23/3333618 Land adjacent to 6 Bowens Hill Road, Coleford, Gloucestershire GL16 8DU

- 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 Miss A Cole (Coleford Properties Ltd) for a full award of costs against Forest of Dean District Council.
 - The appeal was against the refusal of planning permission for a development described on the planning application form as, "Proposed detached dwelling, associated parking and landscaping".
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. This application for costs is made on the basis that the Council in considering the planning application did not agree with the conclusions drawn by the Inspector in appeal decision Ref APP/P1615/W/22/3292365 which related to a similar scheme, did not follow the recommendations of the Highways authority, and did not properly take account of the submitted parking surveys.
4. In the associated appeal decision, I explained that it is necessary to depart from the conclusions reached in relation to the third main issue of appeal decision Ref APP/P1615/W/22/3292365, due to it not having been demonstrated that a material change of use from the established lawful residential use on the appeal site has occurred as a matter of fact and degree. As such, I consider that the Council's approach in considering the established lawful land use of the site rather than its ownership, was correct.
5. As explained in detail in the associated appeal decision, the Manual for Gloucestershire Streets (July 2020) requires a minimum of 2 parking spaces to be provided for a House in Multiple Occupation (HMO) with 4 or more bedrooms, which means that 6 and 8 Bowens Hill Road (Nos 6 & 8) are required to provide a minimum of 4 parking spaces in total.
6. Although the Officer's Report queried whether the driveway running alongside the south-eastern side of 6 Bowens Hill Road would provide space for 2 vehicles, the report conceded that technically there is room to park 2 cars off the road. As the Officer's Report proceeds on the basis that there remains a

shortfall of 2 car parking spaces for Nos 6 & 8, the Council's assessment in this regard was correctly made.

7. As explained in the associated appeal decision, as there is no authorised and demonstrably safe method of accessing the gravelled area adjacent to 8 Bowens Hill Road, it cannot be considered to comprise part of the legitimate parking provision for Nos 6 & 8. My reading of the Officer's Report is that the Council did not take the gravelled area into account when calculating the off-street parking provision available to the occupiers of Nos 6 & 8, which was the correct approach in the circumstances.
8. The Inspector in appeal decision Ref APP/P1615/W/22/3292365 mentioned that the evidence suggests that the site has previously been used for parking in connection with the HMOs at Nos 6 & 8. Additionally, the Council provided aerial photography showing cars present on the site in the past. The Highways authority also referred to the impact of displaced parking from the proposed development.
9. Whilst it was clarified at the appeal stage that broken / abandoned vehicles were merely placed on site, rather than these being parked cars as such, given the considerations referred to above it was not unreasonable for the Council to consider that the site was historically used by the occupiers of Nos 6 & 8 for the parking of vehicles, and that consequently the development of the site could potentially result in highway safety issues stemming from overspill parking in this sensitive location near to a school.
10. The Officer's Report refers to the submitted Technical Note¹, and provides a critique of the parking survey times. Even though the Council disagreed with the conclusions of the Highways authority and gave little weight to the conclusions of the Technical Note, the Council's conclusions were not irrational given the specific circumstances of the site including its close proximity to a busy junction near a school, and the numerous representations from local residents highlighting highway safety concerns in the vicinity of the site. These are essentially matters of planning judgement on which opinions can differ.
11. Thus, the Council did not behave unreasonably with respect to the substance of the matters under appeal.
12. Additionally, although the Council's application for an award of costs in relation to this appeal was refused, considering the similarities between the appeal scheme and that considered by the Inspector in appeal decision Ref APP/P1615/W/22/3292365, the Council were entitled to make that application for costs. As such, this matter does not alter my findings above.

Conclusion

13. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not occurred and an award of costs is not warranted.

Alexander O'Doherty

INSPECTOR

¹ Technical Note (Rappor Consultants Ltd) (April 2023)