



Costs Decision

Site visit made on 1 July 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 15th August 2024

Costs application in relation to Appeal Ref: APP/B3438/W/23/3330535 Woodland View, Tenford Lane, Tean, Staffordshire, ST10 4EL

- 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 & Mrs Collier for a full award of costs against Staffordshire Moorlands District Council.
 - The appeal was against the refusal of the approval of reserved matters following the grant of outline planning permission for the erection of 3 dwellings.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, Planning Practice Guidance (PPG) 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. There are three claims to assess. Firstly, whether the Council refused to approve reserved matters which were clearly acceptable in relation to the effect of the development on the character and appearance of the area and residential amenity. Secondly, whether the Council refused to approve reserved matters when the objections relate to issues that were considered at application stage. Thirdly, whether by introducing a further reason as to why the design of the development presented at reserved matters would harm residential amenity the Council prolonged proceedings.
4. The first claim relates to the Council's first two reasons for refusal. In its first reason for refusal, the Council explained that the design of the proposed building would result in harm to the character and appearance of the area, citing the policy of the development plan the proposal would be contrary to. Within its appeal statement, the Council expanded upon its reason for refusal. Although for the reasons given in the appeal decision I did not agree with the Council, such matters are a question of planning judgement. Through the wording of its reason for refusal and its appeal statement, the Council's evidence was sufficiently respectable to substantiate its decision to refuse approval of the reserved matters, on the grounds of its adverse effect on the character and appearance of the area. As a result, it did not act unreasonably.
5. In the second reason for refusal, the Council stated that the size of the proposed vehicular parking and turning spaces would be insufficient. The appeal statement simply restates this analysis without explaining why the parking spaces would be unacceptable. Given that the parking spaces comply with the Council's parking standards, and no evidence was put forward demonstrating that the turning space would be too small to function properly,

the Council therefore acted unreasonably in refusing to grant approval of the reserved matters due to the size of the vehicle parking and turning spaces.

6. With regard to the second claim, the Council's reason for refusal related to the failure to demonstrate that drainage to the development would not increase the risk of flooding. Drainage was considered at outline application stage where it was determined that could be adequately controlled by condition. Condition 8 was attached to the outline planning permission for this purpose. During consideration of the application that is the subject of this appeal the site drawing was amended to show the proposed drainage on the site at the request of Staffordshire Wildlife Trust. However, it is clear from the application form that the appellants were not submitting details to discharge condition 8. The application only sought approval of reserved matters. As a result, the Council's third reason for refusal was unreasonable.
7. Turning to the third claim, the Council's appeal statement expanded upon its second reason for refusal by introducing reference to the useability of private outdoor amenity space. Whilst the timing of the introduction of this matter was irregular, as it was material to the appeal and was dealt with swiftly by the appellants in their final comments it did not prolong proceedings or result in unnecessary or wasted expense.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the reasons for refusal of the application relating to vehicular parking spaces, turning space and drainage and a partial award of costs is therefore warranted.

Costs Order

9. 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 Staffordshire Moorlands District Council shall pay to Mr & Mrs Collier, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to addressing vehicular parking spaces, turning space and drainage; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Staffordshire Moorlands District 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.

Ian Radcliffe

Inspector