



Costs Decision

Site visit made on 10 July 2024

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2024

Costs application in relation to Appeal Ref: APP/T3725/W/23/3331869 8 Leam Terrace, Leamington Spa, Warwickshire CV31 1BB

- 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 Williams for a full award of costs against Warwick District Council.
- The appeal was against the refusal of planning permission for the erection of a single dwelling and associated works.

Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that parties in planning appeals are normally expected to meet their own expenses, irrespective of the outcome of the appeal. Costs may only be awarded against a party which has behaved unreasonably, in either a procedural or substantive way, and whose unreasonable behaviour has caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Whilst behaviour and actions at the time of the planning application can be taken into account, costs can only be awarded in relation to unnecessary or wasted expense at the appeal.
3. The applicant contends that the Council ignored relevant case law. However, the case referred to is a planning appeal decision¹ in which an Inspector found that amenity space provision below that recommended by the Residential Design Guide (May 2018) (RDG) was acceptable because of the presence of other open spaces nearby. Whilst the Council did not refer to this appeal decision in the officer report, they go on to substantiate the reason for refusal in more detail within the Appeal Statement, accepting that the application of the standards will vary depending on the site-specific circumstances. They explain in detail why they consider the appeal proposal differs from the case referred to by the appellant. As is evident from my decision letter I have found that the amenity space provision would be acceptable, based on my assessment of the site-specific circumstances, however this does not mean that the Council behaved unreasonably in coming to a different conclusion.
4. I note that attempts have been made to address previous concerns raised in respect of earlier applications at the site. However, there is no substantive evidence before me that contradictory advice has been given by the Council. The fact that issues were raised by the Council in subsequent schemes which

¹ APP/T3725/W/20/3251045

were not raised in relation to earlier submissions is not, in itself, indicative of unreasonable behaviour.

5. The Council took the view that the width of the parking spaces would be insufficient and that this would lead to increase parking stress. Whilst the Highway Authority did not object to the proposal, they did not specifically refer to the width of the spaces and the Council have substantiated the reason for refusal in this regard. I therefore do not find that the conclusion the Council made on this matter amounts to unreasonable behaviour.
6. Copies of correspondence between the Council and the applicant have been provided. This includes an email from the Council to the applicant, including the concerns of the Environmental Health Officer (EHO) in respect of noise impacts from the nearby pub and explaining that a noise assessment would be required. Even if there was a delay in sending consultations, the outcome of these was clearly communicated. It is not clear from the evidence before me that the applicant expressed a desire to submit the noise assessment prior to determination but was not given this opportunity.
7. I do not consider the Council behaved unreasonably in not requesting a noise assessment prior to determination as the necessity became evident as a result of the consultation process. Noise concerns may not have been raised in relation to previous applications on the site, however I have been provided with limited details of these schemes and cannot be certain that the noise implications would have been the same. In any event, this reason for refusal was fully substantiated by the Council and as is clear from my decision, I have found that the proposal would fail to provide acceptable living standards with respect to noise.

Conclusion

8. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG, has not been demonstrated. Therefore, the application for an award of costs must fail.

E Pickernell

INSPECTOR