



Costs Decision

Site visit made on 5 November 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

**Costs application in relation to Appeal Ref: APP/T3725/W/24/3342618
66 Montrose Avenue, Lillington, Leamington Spa, Warwickshire CV32 7DY**

- 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 Tom O'Sullivan for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of planning permission for the erection of two storey, two bedroom detached dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and, that the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary and wasted expense in the appeal process. The PPG provides examples of unreasonable behaviour which could result in a substantive award of costs being made against the Local Planning Authority.
3. The applicant claims that the Council has acted unreasonably by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations; failure to produce evidence to substantiate each reason for refusal; and vague, generalised, or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant's claim is based on the Officer's recommendation to approve the proposal being overturned by the Planning Committee Members, and that the Council did not provide any substantive evidence to support the assertion that the appeal proposal conflicts with Policy BE3 of the Warwick District Local Plan 2011-2029.
5. The minutes which have been provided with the evidence are sufficiently detailed to show that the members raised concerns relating to the effect of the proposed development on the living conditions of neighbouring properties and that the proposal had not overcome the concerns raised in the previous appeal decision.
6. The members are not bound to follow the advice of officers. Moreover, the minutes do not have to fully substantiate each reason for refusal or provide objective analysis or evidence of the effects of the proposal. The minutes do not need to be verbatim, and I have no evidence that the members did not

take account of the revised scheme and the submitted Daylight, Sunlight and Overshadowing Assessment, dated December 2023.

7. The Council, within their statement of case, have clearly set out the reasons why the development was not acceptable and reached a conclusion that the proposed development would adversely affect the living conditions of the occupiers of the neighbouring properties. The Council has clearly set out the justification for the reason for refusal and related the concerns to relevant development plan policies and the Council has, therefore, not failed to produce evidence to substantiate each reason for refusal or relied on vague, generalised, or inaccurate assertions about a proposal's impact, even though they have not provided an alternative daylight, sunlight or shadowing assessment.
8. For these reasons, although I have reached a different conclusion on the effect of the proposal, I have found that the Council had reasonable concerns about the proposed development which justified its decision. The appellant had to address those concerns in any event and, therefore, the appeal could not have been avoided.
9. Consequently, I have no substantive evidence that the Council has acted unreasonably in the appeal. As such, there can be no question that the applicant has incurred unnecessary or wasted expense.

Conclusion

10. I find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

K Townsend

INSPECTOR