



Costs Decision

Site visit made on 12 December 2024

by **J D Westbrook BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 January 2025

Costs application in relation to Appeal Ref: APP/Y3425/D/24/3347608 18 Lapwing Place, Stafford, ST16 1FX

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Ragobar for a full award of costs against Stafford Borough Council.
 - The appeal was against the refusal of planning permission for the erection of garden frames for climbing plants.
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Decision

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

Reasons

2. 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. The proposed development related to 4 timber garden frames that were already erected in the rear garden of the appeal property. A previous retrospective application had been refused by the Council (ref: 23/38031/HOU) and an identical application was subsequently made which was also refused by the Council (Ref: 24/38984/HOU). It is the second application that has been appealed against and accompanied by an application for costs.
4. The appellant contends that the Council has misapplied and mis-referenced Policy N1 of the Plan for Stafford Borough (LP) as well as Policy from Section 12 of the National Planning Policy Framework (The Framework); that the Council did not take into account a comparable fall-back development potential; and that it did not allow the appellant any opportunity to consider and respond to the reasons for refusal or to find common ground or to consider how the application could be altered to be considered acceptable.
5. With regard to the policy context, Policy N1 relates to design quality and relates to all development. Although the Council has incorrectly referred at one point to paragraph (e) in its rebuttal statement, it has correctly quoted from paragraphs (g) and (h) which are relevant to this proposal. In similar vein, policy on achieving well-designed places in Section 12 of The Framework refers to all forms of development. On the basis of the use of policy context, therefore, I find that the Council has not behaved unreasonably in the matter.

6. With regard to the potential fall-back development position, it is clear that the 4 garden frames are intended for the specific purpose of supporting climbing plants as part of an overall garden design. On this basis, there would not appear to be any realistic prospect of the fall-back building, referred to by the appellant, actually being constructed. I do not consider, therefore, that the Council has acted unreasonably by not taking the fall-back permitted development potential into account.
7. In making the second identical planning application relating to the construction of the garden frames, the appellant would have had the opportunity to make any amendments to the scheme considered necessary to overcome the earlier reasons for refusal given by the Council. It would appear that no such amendments were directly discussed or subsequently made. I acknowledge that it is unfortunate that the decisions on the two applications were made in such a way that the appellant was surprised by the outcome, but this does not mean that a Council is unable to continue considering a proposal until late in the process, including at the committee stage, if circumstances warrant such an approach. This, in itself, is not unreasonable.
8. However, in this case, the Council's decision appears as vague and inaccurate in its assertions about the proposal's impact, and these assertions are unsupported by any consistent objective analysis. The decision notice refers to the development as a solid structure when it consists of 4 separate slim garden frames with neither solid sides nor roof. In the planning officer's report it is referred to in one place as 'an inappropriate prominent addition within the site' which 'detracts away from the character and visual amenities of the local area', but in another place it is stated that the development is 'largely unviewable from the street scene, although it can be partially viewable from some vantage points from Lapwing Place. Nevertheless, given the distance between the development and the public vantage points, officers would not consider it to result in a prominent and incongruous addition to the street scene'.
9. There is a significant contradiction here, in that it would appear impossible for a development to detract from the visual amenities of an area if it is largely unviewable from outside of the site and is neither prominent nor incongruous. In addition, the officer's report concludes that the proposal would not be harmful to the amenities of surrounding residents by way of outlook or light. On this basis, the Council has not clearly identified any harm to the visual amenities of the area from the regard of either the public or private realm.
10. Furthermore, subsequent to the statement that the Council officers would not consider the development to be a prominent and incongruous addition the street scene, the report concludes that 'the structure would therefore have a detrimental impact, detracting from the character and visual amenities of the local area'. Again the assertions by the Council appear as contradictory and based largely on inaccurate, inconsistent or incomplete analysis. For this reason, I consider that the Council's behaviour has been unreasonable in this particular matter.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has been demonstrated and that a partial award of costs is justified.

Costs Order

12. 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 Stafford Borough Council shall pay to Mr Brian Ragobar the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred with regard to countering vague and inaccurate assertions about the proposal's impact which were unsupported by clear objective analysis; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Stafford Borough 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.

J D Westbrook

INSPECTOR