



Costs Decision

Site visit made on 3 October 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2024

Costs application in relation to Appeal Ref: APP/L3245/W/23/3320450 Kyrewood , Clive Avenue, Church Stretton, SY6 7BL

- 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 Peter Foster for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for the demolition of existing garage, construction of a new three bedroom property and car proposed parking deck to Kyrewood
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Decision

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

Reasons

2. National guidance on awards of costs is set out in the Planning Practice Guidance (PPG). The PPG states that in planning appeals and other planning proceedings parties normally meet their own expenses. All parties are expected to behave reasonably. The 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. The PPG states that unreasonable behaviour in the context of an application for an award of costs may be either procedural, relating to the appeal process or substantive, relating to the merits of the appeal. It provides some examples of the types of behaviour that might be held to be unreasonable, and which may give rise to an award of costs against a Local Planning Authority. With regard to substantive matters, the examples include preventing or delaying development which should clearly be permitted, failing to produce evidence to substantiate a reason for refusal or providing vague and generalised assertions. The list is not exhaustive.
4. The applicant contends that the Council failed to properly assess the proposed development through failing to undertake a full site visit, failing to calculate the quantity of open space, making inaccurate assertions about replacement planting and potentially misinterpreting national policy regarding public benefits.
5. I acknowledge that, based on the Council's evidence, that it does not appear that a full site visit was undertaken. Nevertheless, the tree cover is apparent from the surrounding roads, and sufficient detail was provided with the application that an assessment could be undertaken by the Council.
6. With regards to the calculation of open space, it is apparent from the submissions of both parties that the Council does not have a minimum

standard for private garden space. As such, it is for the decision maker to assess whether the proposed private space is adequate in both size and function. The Council highlighted their concerns in relation to the tree cover and that this could increase pressure on tree felling.

7. In relation to replacement planting, as noted in the applicant's statement of the some 1356 square metres of private amenity space, only approximately 302 square metres are not under tree cover. Additionally, the site is sloped in nature. As such the Council were concerned that further compensatory planting would be difficult due to the constraints on site. Their reasoning for this is clear in their Officer Report (OR) and a material consideration in the determination.
8. The OR provides an assessment of the proposed development and its public benefits stating, "*Although the scheme could deliver some potential social and economic benefits, such as boosting housing supply and providing employment opportunities during the construction phases of development, the social and economic benefits are considered negligible, given the small scale of the development proposed.*" Whilst the reason for refusal has gone on to use the wording 'significant public benefit' I am content that, based on the wording contained within the OR, that the National Planning Policy Framework has not been misinterpreted.
9. Whilst I appreciate the outcome of the application will have been a disappointment to the applicants, the Council were not unreasonable in coming to that decision from the information they had available to them. The concerns raised in the reason for refusal are apparent in the OR which clearly sets out how the proposal, in the Council's opinion, would conflict with relevant adopted planning policies and the harm that the Council consider would arise. I am therefore satisfied that the Council's reasoning was credible, and it was entitled to reach the decision it did. The fact that I have come to a different conclusion on these matters in my appeal decision does not mean that the Council's assessment amounted to unreasonable behaviour.

Conclusion

10. For the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Tamsin Law

INSPECTOR