



Costs Decision

Site visit made on 10 August 2021

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Costs application in relation to Appeal Ref: APP/P0119/W/21/3276281 Co Op At Parkway Tavern, 43 North Road, Stoke Gifford BS34 8PB

- 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 Danolly Limited for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of the Council to planning permission for a new access off Hatchet Road.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) states that irrespective of the outcome of an appeal, costs may only 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 associated appeal process. The same guidance makes it clear that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Failing to produce evidence to substantiate a reason for refusal on appeal, or making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, are cited as examples and are reflected in the applicant's claim. The submission also claims that the proposal complied with the development plan and should have been permitted and the necessary appeal has caused the applicant delay and unnecessary expense.
3. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this case, the application was supported by a number of technical documents and the highway officers concluded that the proposal was subject to a Road Safety Audit and would not present a material safety hazard. Whilst concerns from the Community Council, Ward Member and local residents were raised, little evidence has been put forward by the Council to support the reason for refusal and establish that the proposal would result in a severe highway safety impact.
4. It appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development

proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the National Planning Policy Framework (the Framework) and the PPG and the applicant has been faced with the unnecessary expense of lodging the appeal.

5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

6. 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 South Gloucestershire Council shall pay to Danolly Limited, the costs of the appeal proceedings described in the heading of this decision.
7. The applicant is now invited to submit to South Gloucestershire 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Tamsin Law

INSPECTOR