



## Costs Decision

Hearing held on 11 June 2024

Site visit made on 11 June 2024

**by F Rafiq BSc (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 July 2024**

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### **Costs application in relation to Appeal Ref: APP/Z3445/W/24/3340508 Police Station, Spinning School Lane, Tamworth, Staffordshire B79 7BB**

- 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 Steve McQuaker (Tommac Building Services Ltd) for a full award of costs against Tamworth Borough Council.
  - The appeal was against the refusal of planning permission for the proposed conversion of and extensions to existing 5 storey former Police Station building (including demolition of single storey elements/outbuildings) to form 54 residential units.
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### **Decision**

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

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (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 applicant's submission relies on the Committee of the Council determining the planning application by failing to accept the Planning Officer's recommendation. In doing so, the applicant has set out that the Council has prevented or delayed development which should have been permitted and have made vague, generalised or inaccurate assertions about a proposal's impact.
4. The Planning Committee is not bound to accept the recommendation of its officers, provided they produce evidence to substantiate its contrary decision. In relation to car parking, the Council departed from the response by the Highway Authority that the proposed provision was acceptable, but in its reasoning, the Council have not taken account of the highly accessible location of the appeal site, where easy access by walking and cycling to town centre services and public transport connections exist. The Council's reference to re-development of public car parks was vague and was not supported by any further detail. As such, the Council has failed to sufficiently justify this aspect of the refusal.
5. The Council's refusal also referred to the shortfall in private outdoor amenity space, but on this, the Council's reasoning in its Statement of Case refers to a lack of parks and open space areas within close proximity to the site. It was however accepted at the hearing that a number of open space areas are in easy walking distance of the appeal site. Furthermore, in relation to minimum space standards, the Council has not explained the harm that would arise by

the small shortfall in the size of a number of flats. In relation to the proposed mix of residential units, the Council has failed to provide any compelling evidence contrary to the submissions by the estate agent representing the appellant on the lack of need for three-bedroom units in the town centre area. The refusal reasons have not been substantiated and the lack of objective analysis is unreasonable behaviour.

6. These factors constitute unreasonable behaviour and has resulted in the applicant having to provide evidence by pursuing this appeal and thereby incurring unnecessary and wasted expense.

### **Conclusion**

7. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

### **Costs Order**

8. 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 Tamworth Borough Council shall pay to Mr Steve McQuaker (Tommac Building Services Ltd), the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to Tamworth 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.

*F Rafiq*

INSPECTOR