
Costs Decision

Site visit made on 31 January 2017

by Louise Nurser BA (Hons) Dip UP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 February 2017

Costs application in relation to Appeal Ref: APP/T2405/D/16/3166022 11 Old Church Road, Enderby LE19 2ED

- 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 Hamdi Sameer Hamdi Almasri and Dr Reeta Herzallah for a full award of costs against Blaby District Council and Leicestershire County Council.
 - The appeal was against the refusal of planning permission for retention of front parking area and revised vehicular access point, ancillary residential accommodation with associated external alterations and boundary treatment.
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Decision

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

Reasons

2. 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 expenses in the appeal process.
 3. Paragraph 49 of the PPG, advises that local planning authorities (LPA) are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals.
 4. Specifically, the appellants contend that the development should clearly have been permitted as the development was in accordance with the development plan and material guidance. Policy IN5 of the 6Cs guidance requires consideration of local context. In so doing, the Council acted on the advice of the Highway Authority which exercised its professional judgement based on the evidence before it, including that provided by the appellants, which confirmed combined 85th percentile vehicle speeds of 50.97 mph, within a stretch of road, subject to a 50 mph limit, as well as accident statistics. The Highway Authority also was clearly aware of existing historic accesses as these were referred to within its original consultation response to Blaby District Council.
 5. I note that the Highway Authority has not provided additional evidence at appeal to substantiate its advice. However, in the particular circumstances of this appeal and in the context of the evidence already provided by the appellants further evidence was not required as the difference between the two
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parties was a matter of interpretation and of professional judgement, including consideration of the relevance of Paragraph 32 of the Framework.

6. Given the fundamental differences between the two positions held by the appellants and the Councils who considered that the permitted access was safer and more suitable than that the subject of the appeal, no purpose would have been served by entering into further correspondence. As such, the appeal would not have been able to be avoided or the issues between the parties narrowed.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

L. Nurser

INSPECTOR