

Costs Decision

Site visit made on 12 March 2020

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2020

Costs application in relation to Appeal Ref: APP/P1805/D/20/3244670 155 New Road, Bromsgrove B60 2LH

- 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 Stuart Hawkes for a full award of costs against Bromsgrove District Council.
 - The appeal was against the refusal of planning permission for the conversion of a front garden to a new driveway with new road access to New Road.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Parties in the appeal process are normally expected to meet their own expenses. The Guidance advises that local planning authorities are encouraged to properly exercise their development management responsibilities, and to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case and not to add to development costs through avoidable delay.
3. The applicant engaged with the Council in pre-application discussions with a view to ensuring that their scheme was acceptable in principle to the Council. There is no substantive evidence before me as part of the costs application relating to the pre-application process, but the Council have explained that the Highway Authority provided some initial comments. However, no planning specific comments were provided. I therefore understand the applicant's frustration with not receiving a more detailed response to their enquiry.
4. That said, a planning application was submitted, and the Council provided comments about the scheme. These were not from a planning perspective favourable. The Council is entitled to reach a planning judgement on the scheme even though the initial highway advice was more favourable. While the Council may have a particular approach to unfavourable proposals, it is the applicant's right to have the planning application determined. Despite the Council's comments, it would seem that the fee payable for the application had not been received by the Council and there was a delay in recognising this fact, a

matter which was addressed some 7 weeks later. Consequently, it was from this date, notwithstanding the previous correspondence, that the Council calculated the determination date for the planning application. Clearly, there has been a passage of time since the planning application was first submitted, and the substantive points around the hedgerow could have been more widely explored by the Council and the overall street scene, given the advice on hand from consultees. However, I am of the view that the Council has considered the proposal on its planning merits and has, on balance, substantiated its case.

5. I recognise the applicant's efforts to engage with the Council, which is an approach advocated by the Government. While more engagement could have, and ought to have been forthcoming from the Council, it is not clear that this behaviour has led the applicant to incur unnecessary or wasted expense for the matters listed within their costs application beyond which they would normally be expected to meet on their own. I have no reason to doubt that the effect caused by the prolonged of period time that this scheme has been considered within has caused frustration to the applicant and delayed their plans to renovate the property, but these are not grounds for an award of costs alone.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Andrew McGlone

INSPECTOR