
Costs Decision

Site visit made on 6 January 2020 by A J Sutton BA Hons DipTP DMS MRTPI

by David M H Rose BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st March 2020

Costs application in relation to Appeal Ref: APP/Q4625/W/19/3239145 734A Old Lode Lane, Solihull, West Midlands, B92 8NH

- 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 Essen Homes Ltd for a full award of costs against Solihull Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for a new build 2 bedroom bungalow – land to the rear of 734A.
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Decision

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

Reasons for Recommendation

2. Planning Practice Guidance (PPG) sets out that irrespective of the outcome of an appeal, costs may only be awarded where a party has behaved unreasonably, in either a procedural or substantive way, which has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG advises an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
4. The appellant has submitted a document outlining a professional works and fees proposal which includes fees for preparing an application for costs as well as the appeal submission. The proposal states that the issue of external detailing of the proposal was not raised by Solihull Metropolitan Borough Council (SMBC) within a reasonable timeframe and as such SMBC has acted unreasonably. There is no specific information that expands on the reasons for the costs application, however I have had regard to the appellant's written statement and rebuttal statement insofar as it suggests that the Council has behaved unreasonably.
5. The appellant's written statement indicates that the Council did not communicate comments on consideration of urban design, and in the appellant's view, the Council did not engage constructively with the appellant or seek deemed amendments required.
6. This was reiterated in the appellant's rebuttal statement which states that the Council offered no comment on the design of the proposed development following its submission on 16 May 2019 until 22 July 2019, when the appellant

was advised to withdraw the application, or it would be refused on design grounds. It is understood that the application was refused two days later, and the appellant was disappointed not to be able to amend the plans prior to refusal. The appellant contends that it had not been provided with an explanation as to why the decision was made without constructive dialogue.

7. SMBC has rebutted the costs application, maintaining that its communication and advice during the application process, delegated report and decision notice provides robust grounds to substantiate its decision which covers the relevant planning issues. Furthermore, according to the Council, the application was determined within the relevant timescales. The Council, therefore, maintains it has not acted unreasonably in the handling of the planning application or appeal, and there is no basis on which an award of costs should be made, having regard to advice in the PPG.
8. I have had regard to the points raised by both parties. Although lack of co-operation between parties is a procedural matter which may be the basis for an award of costs, there is no information before me, that clearly establishes the context for the events, to confirm that the Council has behaved unreasonably in this respect.
9. The appellant has provided no further evidence, in support of the costs application, which would suggest that the Council has behaved unreasonably in either a procedural or substantive way which has resulted in wasted expense being incurred by the appellant during the appeal process and for this reason I recommend that the application for an award of costs is not justified in this case.

Recommendation and Conclusion

10. For the reasons outlined above, and having regard to all other matters raised, I recommend that an award of costs is refused.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

11. I have considered all submitted evidence and the Appeal Planning Officer's report and on that basis an award of costs is refused.

David MH Rose

INSPECTOR