
Costs Decision

Site visit made on 19 May 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2020

Costs application in relation to Appeal Ref: APP/Q4625/W/20/3246571 19 Nebsworth Close, Shirley, Solihull B90 3NS

- 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 and Mrs R. D. Doogood for a full award of costs against Solihull Metropolitan Borough Council.
 - The appeal was against the refusal of outline planning permission for the demolition of the existing dwelling and the erection of up to three dwellings with associated access and parking.
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Decision

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

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 expense in the appeal process. The PPG provides a number of potential examples of unreasonable behaviour by local planning authorities including failure to produce evidence to substantiate each reason for refusal on appeal.
3. The applicants contend that the Council acted inappropriately in considering matters that were not part of the outline application, namely; appearance, layout, scale and landscaping. They further contend that the Council relied on an incorrect interpretation of policy in finding that the proposal was in an unsustainable location.
4. The Council's first reason for refusal relating to character, goes beyond the scope of the outline application, thereby referring to matters of detail reserved for subsequent approval. The Council's submissions under the appeal are predicated on assessing such matters at this stage. As these matters were submitted as being indicative, the Council's conclusions are not well founded. Consequently, the Council has acted unreasonably in refusing outline planning permission and maintaining their position on these grounds.
5. The Council's second reason for refusal, relating to location, was not substantiated in the appeal. Nonetheless, the objective nature of the policy on which the Council based its reason, means it is straightforward to deduce that the appeal development is exempt from its requirements.

6. Although the Council has largely acknowledged their error in their appeal statement, in referring to the policy when originally refusing outline planning permission it has thereby acted unreasonably which has required the applicants to address this matter in their appeal statement.
7. It is therefore found to be 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

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 Solihull Metropolitan Borough Council shall pay to Mr and Mrs R. D. Doogood, 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 .
9. The applicants are now invited to submit to Solihull Metropolitan 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.

Liam Page

INSPECTOR