



Costs Decision

Site visit made on 7 July 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2020

Costs application in relation to Appeal Ref: APP/D4635/W/19/3239834 415 Stafford Road, Wolverhampton WV10 6RP

- 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 M Hussain for a full award of costs against Wolverhampton City Council.
 - The appeal was against the refusal of planning permission for a proposed bungalow to the rear of dwelling with associated parking and garden space.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or it fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The Applicant submits that the Council have prevented or delayed development that should have clearly been permitted. Whilst Planning Committee members can base their judgement on local knowledge and the local residents petition, the decision must be justified with reference to local and national planning policy, as well as any relevant material considerations. It is submitted that, in this case, the Council has failed to substantiate their Reason for Refusal with any justified evidence either at the time of refusal or during this appeal.
5. The Applicant also considers that the objections received were addressed in the officers' report and highways raised no issues. The views expressed by residents and taken up by the Council's subsequent stance and decision is a subjectively political matter, which should not have been given "significant weight" in the determination of the application, without the provision of detailed evidence.

6. Finally, it is set out that the Council erred in their decision-making process, and as such concluded inaccurate assertions about the impact of the proposals. The Applicant considers that the proposal is in accordance with the adopted Development Plan and paragraphs 109 and 117 of the National Planning Policy Framework (the Framework).
7. The Council have not provided a response to the application for costs.
8. It is clear to me that a Planning Committee decision which goes against officer advice is not a reason to give an award of costs as the Committee were entitled to come to their own conclusions on the merits of the proposal. However, the key issue is whether the Council have provided sufficient evidence to substantiate their reasons for refusal at appeal.
9. The Councils reason for refusal was based upon the impact of the loss of on-street parking on Brunslow Close and this was evidenced by the level of objection received on this matter. To my mind, this was clearly a material planning consideration in this case.
10. As part of the appeal proceedings the Council have provided little evidence on this main issue and appear to have relied heavily on local residents to support the reason for refusal. However, I am satisfied that they have just provided enough evidence to justify their decision in this case.
11. I have also had regard to whether the Council had considered the Framework in their decision and in particular paragraphs 109 and 117.
12. The Councils report to committee identifies that the Framework is a material consideration but does not specifically identify which parts are relevant to the determination of the proposal. That said, I consider that specific reference to these paragraphs is not essential, although it may have been helpful to the consideration of the proposal as a whole.
13. In my decision, I found that the proposal would not result in an unacceptable impact on highway safety as a result of the loss of on-street parking. However, the assessment of this was, without a doubt, a matter of planning judgement. To that end, I also find that the Planning Committee were entitled to exercise their judgement in a similar way, even though I have ultimately come to a different conclusion on this issue.
14. Given the subjective nature of the proposals impact, in this case, I find that the Council did not act unreasonably in refusing planning permission.

Conclusion

15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Chris Forrett

INSPECTOR