
Costs Decision

Site visit made on 27 July 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2020

Costs application in relation to Appeal Ref: APP/P1605/W/20/3245563 Sandhurst Road, Charlton Kings, Cheltenham

- 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 Simon Kane for an award of costs against Cheltenham Borough Council.
 - The appeal was against the refusal of planning permission for the installation of an automatic barrier at the Ryeworth Road entrance to Sandhurst Road for which the barrier is to be set back 12m from the highway, resurfacing of unmade parts of the road, and painting of double yellow lines.
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Decision

1. The application for costs is refused.

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Planning Practice Guidance states that examples of unreasonable behaviour by Local Planning Authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant has stated that for the reasons given in their Statement of Case, they are applying to recover costs. The applicant has also provided a list of costs that the process of planning application and appeal has totalled.
5. It is clear that there is a difference of opinion between the applicant and the Highways Authority about whether Sandhurst Road is a highway and there is the issue of whether it is legally permitted for the wider public to drive through this street. However, the Highway Authority response is sufficiently clear and reasoned, including why they believe there would be a potential highway safety risk if the barrier was in place as proposed.
6. I recognise that there have been amendments from that originally proposed, with less barriers and also the remaining barrier being set back from the junction. However, whilst these amendments may have been beneficial, the Council has provided a reasoned argument explaining both reasons for refusal

and concluding against planning policy, as to why the amended proposal was refused planning permission.

7. There may have been some delays with responses from the Council during the planning application process. I also note there was pre-application discussions and early discussions with the Highways Department. However, there is no substantive evidence that the Council through this process acted with unreasonable behaviour in the circumstances.
8. Whilst the whole process has resulted in significant expense for the applicant, it is my view, from the evidence provided, that the Council did nothing that could be considered to be unreasonable behaviour.
9. Overall, I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

S. Rennie

INSPECTOR