



Costs Decision

Site visit made on 29 June 2020

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2020

Costs application in relation to Appeal Ref: APP/P4605/W/19/3243127 Land to the rear of 2-22 Clarence Road, Four Oaks, Sutton Coldfield B74 4AE

- 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 G Hale on behalf of Firstpost Homes for a full award of costs against Birmingham City Council.
 - The appeal was against the refusal of planning permission for demolition of existing buildings; erection of 3no. dwellinghouses and associated works.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Awards can be based on either procedural or substantive matters.
3. The appellant is of the view that the Council have acted unreasonably by determining the proposal contrary to advice provided by the City Design Officer and that they failed to provide cogent evidence to support the decision made. In addition, it is suggested that the second reason for refusal could have been resolved through the use of a suitably worded planning condition. As a consequence, the appellant considers that the Council have prevented and delayed sustainable development which should clearly have been permitted.
4. Despite these concerns, based on the evidence before me, it is apparent that the Council have substantiated their reasons for refusal in the officer report and subsequent statement of case. Although the decision was contrary to advice provided by the City Design Officer, the Council have confirmed that this role is advisory and that it is not compelled to determine the application in accordance with any advice received. However, the Council is compelled to articulate their concerns, and based on the evidence before me, I am satisfied the reasons for refusing the proposal have been adequately articulated. In addition, having resolved to refuse planning permission, the use of a condition to control boundary treatments would not have been a course of action that would have been available to the Council.
5. Consequently, whilst I have found against the conclusions of the Council, I am satisfied that the analysis presented is objective and seeks to defend the

decision in a proportionate manner. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Martin Chandler

INSPECTOR