
Costs Decision

Site visit made on 26 November 2020

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 8 December 2020

Costs application in relation to Appeal Ref: APP/Q4625/W/20/3258507 39 Kineton Green Road, Olton, Solihull B92 7DX

- 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 Ms Gemma Jenkinson for a full award of costs against Solihull Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing house and replacement with 2 x five-bedroom detached houses with access, parking and landscaping.
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Decision

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

Procedural Matter

2. The applicant has not specified as part of their costs application whether they seek a full or partial award of costs. Based on the details of their submission I have considered the application as seeking a full award of costs.

Reasons

3. Paragraph 030 of the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in this context may be procedural, relating to the appeal process, or substantive, relating to issues arising from the merits of the appeal.
4. The applicant's case contends that the Council did not adhere to the Solihull Planning Committee Handbook in deciding to refuse the application. Specifically, they note that the Committee did not identify clear reasons for refusal prior to the final vote and that the resulting decision and reasons for refusal were generalised assertions which did not have due regard for local policies, national policies and the advice of their planning and technical officers.
5. While I do not consider the Council's adherence to a Committee procedural guide to equate to unreasonable behaviour in this instance, further discussion is warranted having regard for the reasons for refusal given.
6. In determining the appeal I concluded that planning permission should have been granted. Based on the evidence provided, I am not satisfied that the Council has adequately substantiated their reasons for refusal or identified

actual conflicts against the relevant local and national policies. It is also unclear whether the Council gave regard to other material considerations, such as the Council's current five year housing land supply shortfall and the lack of objection from the various internal consultees, particularly from Highways and Heritage Officers. I therefore consider that the Council's reasons for refusal were unacceptably vague and generalised assertions without substantive evidence or analysis to support them.

7. Accordingly, I find that 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 for the costs associated with the appeal.

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 Ms Gemma Jenkinson, the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

J Gibson

INSPECTOR