
Costs Decision

Site visit made on 12 November 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2021

Costs application in relation to Appeal Ref: APP/Q4625/W/20/3257107 50 Kingslea Road, Solihull, West Midlands B91 1TL

- 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 Mrs Rachael McGarry for a full award of costs against Solihull Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the change of use from C4 to Sui Generis, to include a 7th bedroom”.
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Decision

1. The application for a full 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. Costs may be awarded to any party regardless of the outcome of the appeal. The PPG makes it clear that a local planning authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal or with respect to procedural matters by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The applicant submits that the Council has acted unreasonably by preventing or delaying development which should clearly be permitted, failure to produce evidence to substantiate each reason for refusal and vague, generalised or inaccurate assertions about a proposal's impact, amongst other matters, which the applicant states amounts to unreasonable behaviour of the part of the local planning authority
4. In reaching its decision, the Council clearly diverged from the views of the Planning Officers and, with regards the second reason for refusal, the highways Officers. The representations from local residents raised concerns with regards car parking, highway safety and noise and disruption amongst other matters and Elected Members of the Planning Committee are entitled to reach their own conclusions based on the evidence before them.
5. However, with the exception of the representations from local residents no substantive evidence has been produced to support the Council's concern that the addition of a single additional bedroom would result in additional parking demand such that it would harm highway safety or that the single additional

bedroom would result in harm to the living conditions of the adjoining occupiers.

6. I therefore find that, to have relied solely or mainly upon objections from local residents and in the absence of substantive evidence to support these concerns, amounts unreasonable behaviour on the part of the Council

Costs Order

7. 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 the Solihull Metropolitan Borough Council shall pay to Mrs Rachael McGarry, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in dealing with the appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to the 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.

Mark Brooker

INSPECTOR