



Costs Decision

Site visit made on 6 January 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2021

Costs application in relation to Appeal Ref: APP/V4630/W/20/3259725 3 Norman Road, Walsall WS5 3QJ

- 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 Avtar Soomal for a full award of costs against Walsall Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for demolition of an existing 2-bed bungalow and construction of a new 4-bed bungalow with loft accommodation.
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, 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. Costs may also be awarded where a local planning authority refuses planning permission on a ground capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the development to go ahead.
3. The appellant contends that the Council provided inconsistent advice, gave them false expectations that planning permission would be forthcoming, included a reason for refusal that had not previously been discussed and made its decision outside the previously agreed extension of time for determination.
4. Whilst it is unfortunate that the case officer intimated that they may be able to offer their support to the proposal this is not directly related to the appeal process. It is not uncommon for more senior officers to check officer recommendations prior to a Local Planning Authority issuing its formal decision. The applicant was entitled to appeal against non-determination if they were concerned that the Council was not dealing with the planning application in a timely manner.
5. The Council has accepted that the third reason for refusal relating to air quality could have been dealt with by condition in the event that the proposal was acceptable in all other respects. However, given the Council's other concerns such a condition would not have enabled the development to go ahead in this

instance. Even if that reason for refusal had not been included on the Council's decision, it is still likely that the applicant would have sought to appeal the decision in respect of the other reasons for refusal. From the evidence before me I am not persuaded that this particular element of the Council's decision has put the applicant to any considerable additional expense in terms of their appeal case.

6. Overall, I find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

M Russell

INSPECTOR