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## Costs Decision

Site visit made on 20 January 2021

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 January 2021**

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### **Costs application in relation to Appeal Ref: APP/Q4625/W/20/3261281 Land To Rear Of 147 Stratford Road, Shirley, Solihull B90 3AY**

- 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 Baljeet Singh for a full award of costs against Solihull Metropolitan Borough Council.
  - The appeal was against the refusal of planning permission for proposed apartments on the site of existing redundant garage blocks.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance 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. This application claims unreasonable behaviour by the Council in terms of  
(i) preventing or delaying development which clearly should be permitted, and  
(ii) not determining similar cases in a consistent manner.
3. The Council's own highway officer raised no objection to the proposal. The Council is not duty bound to follow an officer's advice but it has to demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to support its case. For the appeal, the Council has relied upon evidence provided by commissioned consultants. This sets out a different opinion to that provided by the Council's highway officer but an assessment on the suitability of the access involves an element of planning judgement. Therefore, it does not follow that the concerns raised are unreasonable.
4. The Council's response to the appeal accepts that the proposal would result in a reduction of movements to and from the site. However, this recognition follows analysis provided with the appellant's statement that was not with the Council at the time of its decision. Furthermore, water main information has been provided with the final rebuttal comments to address concerns in respect of fire appliance access which was not with the Council when it determined the planning application. In light of these factors, it is not clear that the Council should have permitted the proposal. As such, it has not been unreasonable in refusing permission, notwithstanding that I have arrived at a different conclusion on the access issue.
5. The Council previously granted planning permission for similar proposals on the site, although this was several years ago. I am uncertain of the traffic and

pedestrian movement information before the Council when it determined these previous applications. Also, it is unclear whether such movements have changed since the last permission was granted. Consequently, I am not persuaded that the Council has been inconsistent in refusing planning permission for the appeal proposal.

6. For these reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. Therefore, an award of costs is not justified.

*Jonathan Edwards*

INSPECTOR