The Planning Inspectorate

# Costs Decision

Site visit made on 26 January 2021

**by William Cooper BA (Hons) MA CMLI**

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

**Decision date: 9th February 2021**

**Costs application in relation to Appeal Ref: APP/Q4625/W/20/3251017**
**114 Kenilworth Road, Knowle, Solihull, B93 0JD**

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Steve Dunn for a full award of costs against Solihull Metropolitan Borough Council.
- The appeal was against the refusal of planning permission for erection of 12 stables, 2 foaling boxes and grooms accommodation.

## Decision

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

## Reasons

2. 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 caused the party applying for costs to incur unnecessary expense in the appeal process.

3. The application centres on the applicant's claim that the Council: (a) made inaccurate assertions about the proposal's impact, which were not supported by objective analysis and evidence; (b) failed to assess the proposal against the correct development plan policies; (c) failed to determine similar cases consistently; (d) delayed appropriate development through failure to determine the application in a timely manner; and (e) failed to reveal relevant evidence and concerns in a co-operative manner.

4. PPG indicates that local planning authorities will be at risk of an award being made against them if they make inaccurate assertions about a proposal's impact, act contrary to policy or inconsistently, and do not co-operate.

5. Regarding matter (a), given the proposed increase in scale of equestrian development in the Green Belt, the Council was entitled to apply its planning judgement on whether very special circumstances apply, a rationale for which is set out in the planning officer's report. Also, as the tests of Paragraph 145b) of the Framework go beyond simply whether a proposal constitutes outdoor recreation, the Council's position was not solely reliant on the recreation question.

6. In respect of matter (b), I see evidence in the planning officer's report and Council's decision that the Council assessed the proposal against development plan policies in the Solihull Local Plan and Knowle, Dorridge and Bentley Heath Neighbourhood Plan.

7. Regarding matter (c), the proposal has its own particular scale, impact and circumstances. Cases of other stables on other sites are not so demonstrably similar as to indicate an inconsistent approach by the Council in this case.

8. In respect of matter (d), I see evidence in email correspondence of engagement between the parties about the appeal proposal. This is within the context of the added complexity of another application by the applicant for a building in the vicinity. The correspondence indicates that the Council communicated its concern about the appeal proposal's effect on openness and the lack of very special circumstance to the applicant's agent. There was subsequently dialogue between the Council, the rural planning consultant and the applicant's agent, with the parties seeking to move things forward towards issuing a decision. It is therefore not shown that the Council caused avoidable delay.

9. Regarding matter (e), the Council did not make the rural planning consultant's appraisal available to the applicant prior to making its decision. Given that the Council made this documentation available after the decision was made, there is no clear rationale justifying this earlier lack of transparency.

10. To conclude, I find as follows. For the reasons given above, I cannot agree that the Council has acted unreasonably in this case in respect of matters (a) to (d). I find that the Council has acted unreasonably in respect of matter (e). However, given the Council's position on central issues of openness of the Green Belt and absence of very special circumstances, it is not clear that had the Council made the consultant's appraisal available earlier, the core arguments would have been substantially different in scope, or an appeal would have been avoided.

**Conclusion**

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for costs fails.

*William Cooper*

INSPECTOR