



Costs Decision

Site visit made on 18 January 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2021

Costs application in relation to Appeal Ref: APP/Z3445/W/20/3260820 1 Summerfield Close, Bolehall, Tamworth B77 3NZ

- 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 Daren Masters for a full award of costs against Tamworth Borough Council.
 - The appeal was against the refusal of planning permission for a development originally described as: 'This application is for the construction of a new semi-detached dwelling which will be attached to an existing property owned by the applicant. The proposal involves the demolition of an existing single storey garage attached to number one Summerfield Close and the construction of the new two storey property.'
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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 that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Awards can be based on either procedural or substantive matters.
3. It is the appellant's view that the Council's reason for refusal is confused, contrived, and underpinned with no evidence for any specific or likely harm. Consequently, they consider that the decision is based on vague assertions. Essentially, the appellant is of the view that despite the perceived ambiguity around the tree preservation order (TPO), this order provides sufficient protection for the trees to enable planning permission to be granted.
4. However, as identified in my decision, I agree with the Council that the trees in their current form would result in the proposed garden having limited functionality. The proposed tree works would improve this situation, however, they would also be harmful to the amenity value of the trees. Due to the likely pressure on the trees for future works, the making of the TPO would appear to have been a reasonable course of action for the Council to take. Moreover, the presence of the TPO would not automatically enable planning permission to be granted. This is because the proposal would not provide suitable living conditions for future occupants and the proposed tree works would be harmful to the character and appearance of the area. Accordingly, despite the perceived ambiguity around the making of the TPO, I am satisfied that the Council have suitably substantiated their decision, and that it is not based on vague assertions.

5. As a consequence, I find that on this basis, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that therefore, an award of costs is not justified.
6. I note the concerns in relation to the handling of the application and correspondence throughout the process. However, based on the evidence before me, I am satisfied that this has not put the appellant to unnecessary or wasted expense. This is because at that point, a decision had not been made.

Martin Chandler

INSPECTOR