



Costs Decision

Site visit made on 23 March 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2021

Costs application in relation to Appeal Ref: APP/Q4625/W/20/3262193 88 (+parts of Nos 86 and 90) Station Road, Balsall Common, Coventry CV7 7FL

- 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 Regis Property Ltd for a full award of costs against Solihull Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of part of 90 Station Road and erection of 4 No. five bedroom detached houses together with access and ancillary site works on land rear of 86-96 Station Road (Resubmission of PL/2018/02561/MINFDW).
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Decision

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

Reasons

2. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Local planning authorities are at risk of an award of costs against them where there is evidence of 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. The applicant's concerns relate to the time taken for the Council to reach its decision; the nature of the proceedings at the Council's Planning Committee sitting in August 2020; and, the Council's subsequent reasons for refusal.
4. Although brief details of the timeline of the planning application, including a successful High Court challenge, were provided by the main parties, there is little before me to indicate the level of communication between the parties during that period. I note that, following referral of the application for redetermination, only minor clarifications were sought from the Council and updated plans were requested to show dimensions/scale bars in line with then newly adopted validation criteria. However, given a previous deferral at the July 2019 committee meeting and the level of interest of third parties, I do not consider it was an unreasonable request for the purposes of providing clarification and potentially reducing the risk of further delay.
5. The time for redetermination seems excessive for the nature of the scheme. However, the absence of clarification as to any reasons for delays or detail in

respect of agreed dates to extend the period for determination of the planning application, or otherwise, leads me to the conclusion that there is insufficient evidence to demonstrate that unreasonable behaviour took place.

6. The applicant has expressed concern over the Council's allocation of time for speakers to address the Planning Committee and the balance of the debate. However, such matters are usually dictated by adopted protocol determined by each Council. In this regard there is little to indicate any inappropriate conduct. The balance of any subsequent debate is a matter for individual committee members. In the absence of a complete formal record detailing any such discussions, I have no firm basis to confirm what discussions took place or whether they might amount to unreasonable behaviour.
7. At the planning committee meetings, the Council's officers had recommended the application for approval. Whilst the Council is not duty bound to follow the advice of its officers, a matter which is recognised by the applicant, if a different decision is reached the Council must clearly demonstrate why a proposal is unacceptable on planning grounds and provide clear evidence to substantiate that reasoning. I find the Council's Decision Notice provided the clarity and precision required by Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 to sufficiently explain its decision.
8. Reason 1 raised concerns in relation to the harm caused to the character and appearance of the locality. The Council has provided reasons to substantiate its concerns and has defended its conclusion in this regard. I find no evidence of unreasonable behaviour therein.
9. In regard to Reason 2 relating to the suitability of the access, there are some legitimate concerns in relation to potential conflicts between highway users. Notwithstanding the advice of the highway advisor, the shared surface layout and restricted width of the access would have some potential to lead to vehicles waiting within the highway and to cause some conflict between users. Whilst I have found that the frequency and effect of any such conflicts might be limited in the context of the proposals, this is a matter of planning judgement for the decision-maker. I find the Council's conclusion and defence were not unreasonable in relation to the proposed development.
10. Reason 3 relates to parking provision. As I have found, the layout of development has shortcomings in relation to the practicality of utilising the proposed parking areas. This could lead to vehicle out-spill with attendant concerns for highway safety. Although there is common ground that minimum parking requirements would be met, the Council have provided valid reasons for their concerns which are entitled to some weight in assessing road safety. Again, this is a matter of planning judgement and does not therefore amount to unreasonable behaviour in the circumstances of the case.
11. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Hitchcock INSPECTOR