



Costs Decision

Site visit made on 4 May 2021

by Samuel Watson BA(Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 8th June 2021

Costs application in relation to Appeal Ref: APP/V4630/W/21/3268807 34 New Road, Brownhills, Walsall WS8 6AT

- 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 Miss M Howells for a full award of costs against Walsall Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the construction of 2No. dwellings to rear of 34 New Road, with associated access.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance makes it clear that parties in planning appeals normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The applicant submits that the Council's reasons for refusal were not suitably justified and related to reserved matters which resulted in the refusal of an application which should have otherwise been approved, and that this resulted in wasted expense for the applicant in responding to these matters.
4. Elected members of the Council are entitled to reach a different decision to that reached, under delegated powers, by the Council's Planning Officer. However, in this instance while the Council did reach a different decision, the purported harms related to reserved matters. While the Council can consider reserved matters at the outline stage where proposed plans have been submitted which are not clearly illustrative, the plan against which the Council made their decision (No. PD536/01 Rev B) did not detail any of the reserved matters. Although I understand a previous plan did, including a proposed access and dwellings, without stating that it was illustrative, this plan was superseded. In this way the Council refused the application against reserved matters which could have been dealt with under a subsequent planning application.
5. Although it was suggested that a Grampian condition could have been used to ensure the access did not pass between Nos 32 and 34 New Road, as access was a reserved matters such a condition would not have been appropriate at this stage.

6. Moreover, in their decision, and appeal submissions, the Council did not substantiate why the development would represent over development of the site.
7. In light of the above, the planning application could have been approved and any matters of concern to the Council could have been dealt with at the reserved matters stage.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Walsall Metropolitan Borough Council shall pay to Miss M Howells, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Walsall Metropolitan Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Samuel Watson

INSPECTOR