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## Costs Decision

Site visit made on 16 August 2021 by Ben Phillips BSc MSc MRTPI

**Decision by L McKay MA MRTPI**

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

**Decision date: 31<sup>st</sup> December 2021**

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### **Costs application in relation to Appeal Ref: APP/P0119/W/21/3272961 School House, The British, Yate, Bristol, BS37 7LH**

- 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 Mrs Louise Williams for a full award of costs against South Gloucestershire Council.
  - The appeal was against the refusal of planning permission for the erection of 1 no. dwelling with access, parking and associated works (resubmission of P20/23983/F).
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) makes it clear that parties in planning appeals normally meet their own expenses. It also sets out that costs may only be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. This may include failure to produce evidence to substantiate each reason for refusal on appeal or by preventing or delaying development which should clearly be permitted.
3. With regards to the behaviour of the Council in the process of determining the planning application, target dates are not always met for various reasons, and the Council has explained the reason for the short delay in this case. Furthermore, the correspondence provided by the applicant demonstrates that they were content to agree an extension of time for determination, albeit that written agreement does not appear to have been reached subsequently. Therefore, it has not been demonstrated that the few days delay in determination was unreasonable or directly caused unnecessary or wasted expense in the appeal process.
4. Similarly, it has not been demonstrated that unanswered emails and phone calls prevented discussion during the application process, indeed the applicant was able to submit further information in response to the Transport Officer's comments. Therefore, it has not been demonstrated that the change in case officer resulted in unreasonable behaviour by the Council or led to unnecessary or wasted expense in the appeal process for the applicant. The employee investigation referenced by the applicant regarding the determination of an earlier refused scheme on the site is a matter between the applicant and Council and there is no compelling evidence before me that it influenced the outcome of the planning application.

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5. Planning permission for a dwelling on a nearby site was not mentioned in the relevant planning history section of the in the Council's officer report, however it was considered by the Council as part of its appeal submissions. It is entirely within the gift of the applicant to bring to the Inspector's attention any additional information that they feel may improve understanding of the context of the proposed development, and all of the permissions mentioned in their evidence have been taken into account in reaching the decision on the appeal. The weight given to these matters is a matter for the decision maker. Therefore, it was not unreasonable for the Council to consider that the other permission was not of significant relevance and that other permissions carried greater weight.
  6. The applicant suggests that the highway concerns raised in this appeal were not similarly raised in relation to a scheme for a dwelling on the adjacent site. However, I do not have copies of the relevant comments or officer report, so direct comparison with previous highways advice is not possible. The Council's description of how the decision was reached to grant permission for a dwelling adjacent to the appeal site has not been determinative in my consideration of the appeal, as it was the fact that the permission exists, rather than the way in which it was reached, that was the relevant factor. In any event, the applicant has been able to deal with these matters briefly in their appeal submissions, therefore, they have not demonstrably led to unnecessary or wasted expense in the appeal process.
  7. The Council acknowledges that a condition on the planning permission for extensions to the School House could have been better drafted. Therefore, the absence of a retention clause appears to have been an error, rather than an indication that the requirements of the condition were not important in highway terms.
  8. The Council's decision notice does not contain a positive and proactive statement. This appears to be an administrative error and has not influenced my determination of this appeal. The issue of land ownership regarding the applicant's suggested improvements at the junction has been considered by the Council and Highway Authority. The Council's approach on this issue was to consider whether there was a likelihood of such works being possible, and as such was consistent with PPG guidance on use of conditions requiring works on land not controlled by the applicant. Therefore, it was not unreasonable behaviour.
  9. The Council's officer report included some inaccuracies, including reference to a footpath which does not form part of the scheme. This was an unfortunate error but has required little effort by the applicant to clarify as part of the appeal. Moreover, the matter of the turning space now proposed in this scheme was considered by the Council during the appeal process. Points made in the officer report about construction traffic directly relate to the Council's case regarding increased use of the access onto The British. However, the ability to deal with such temporary impacts by condition is recognised by both main parties. The typographical errors in the Council's officer report are noted, however these do not obscure the Council's arguments to the degree that they were unclear.
  10. In determining the appeal, I have reached a similar conclusion to the Council having had regard to all of the information before me. The appeal scheme was

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not therefore a development which should clearly have been permitted. However, even if I had reached a different conclusion, the case put forward by the Council was sufficiently clear and based on relevant local and national planning policies and its reason for refusal was adequately substantiated.

### **Conclusion**

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. I recommend that an award of costs is not justified in this case.

*B Phillips*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that an award of costs is not justified in this case.

*L McKay*

INSPECTOR