



Costs Decision

Site visit made on 21 February 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 11 March 2022

Costs application in relation to Appeal Ref: APP/P0119/W/21/3282597 1 Homestead Gardens, Frenchay, Bristol BS16 1PH

- 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 & Mrs R Smith for a full award of costs against South Gloucestershire Council.
 - The appeal was against a part refusal of planning permission for the erection of 1no dwelling: variation of condition 4 attached to PT17/4403/F (as amended by P21/00830/NMA) to substitute drawings without complying with a condition attached to planning permission Red PT17/4403/F dated 15 November 2017.
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, which can include making vague or generalised assertions about a proposal's impact, or by failing to provide evidence to substantiate reasons for refusal.
3. The applicant has alleged that Council Members determined the application based on speculation and unsubstantiated objections, rather than factual analysis of the proposal. This argument primarily hinges on Members voting against officer recommendation and professional advice from Transport Development Control in connection with the proposal.
4. It's important to note that Planning Committees are fully entitled to make decisions contrary to officer recommendation. Indeed, this underpins transparency and fairness of process. Nonetheless, where this occurs, any committee resolution should be based on objective and substantiated analysis.
5. This appeal concerns revisions made to the access to the appeal property, and the consequent effect on highway safety. Specifically, the front boundary wall has been constructed closer to the edge of the kerb than the originally consented scheme, and is also slightly narrower than approved. This meant that the left-hand visibility splay (when egressing the property) fell slightly

short of the recommended distances set out in the Manual for Streets¹ (MfS) for urban areas.

6. My own analysis of the proposal, including observations made during my site visit, led me to conclude that the slight shortfall in the left-hand visibility splay distance would not compromise highway safety to an unacceptable degree. Nonetheless, given the shortcomings when assessed against the technical guidance set out in the MfS, I consider it was reasonable for Members to reach a different conclusion. Indeed, their consideration of the issues drew on a factual analysis of the physical features of the site and the development proposed, and was a legitimate matter of planning judgement. The committee resolution was therefore substantiated, and was not based on vague or generalised assertions about the proposal's impact.
7. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in this instance.

James Blackwell

INSPECTOR

¹ Department for Transport, Manual for Streets.