



Costs Decision

Site visit made on 11 October 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2023

Costs application in relation to Appeal Ref: APP/P1805/W/23/3321638 5 Church Road, Belbroughton, Worcestershire DY9 9TE

- 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 Steven Clarke for a full award of costs against Bromsgrove District Council.
 - The appeal was against the refusal of planning permission for the proposed development described as 'alterations to front boundary to create off street parking, off street bin storage and provision of EV charging point.'
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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 (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.
3. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantive matters (i.e. issues related to the planning merits of the appeal).
4. The applicant considers the reason for refusal to be unreasonable due to the visibility splays calculated by the Local Highway Authority (LHA) being incorrectly calculated and misapplied. Had the LHA applied the correct visibility splays to the proposed access it would have been clear that they can be achieved without crossing third party land, as shown on drawing number 1189-04A. There would not therefore have been a justifiable reason to recommend the refusal of the application on highway grounds. The applicant feels this caused them unnecessary and/or wasted expense.
5. The application was refused for this reason alone, which was informed by the objection received from the LHA. The Council has since confirmed that had it been in receipt of the LHA advice earlier it would have been minded to approve the application.
6. Whilst concerns from the Parish Council and residents were raised, little evidence has been put forward to support the reason for refusal and establish that the proposal would not result in a safe access as required by Policy BDP16 of the Bromsgrove District Plan 2011-2030 adopted 2017.

7. It appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the National Planning Policy Framework (Framework) and the PPG. The applicant has been faced with unnecessary expenses in the form of generating appeal documents, gaining advice from technical experts, and a planning consultant in preparation for the appeal.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, 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 Bromsgrove District Council shall pay to Mr Steven Clarke, 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.

The applicant is now invited to submit to Bromsgrove District 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.

H Smith

INSPECTOR