



Costs Decision

Site visit made on 3 January 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th March 2024

Costs application in relation to Appeal Ref: APP/V4630/W/23/3322850 200 Thornhill Road, SUTTON COLDFIELD, B74 2EP

- 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 Sanjay Furtado for a full award of costs against Walsall Metropolitan Borough Council.
- The appeal was against the refusal of planning permission for the demolition of existing bungalow and the erection of 3 detached dwellings (comprising 1 x 5 bedroom dwelling and 2 x 4 bedroom dwellings).

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. The applicant submits that the Council acted unreasonably through inconsistent decision-making that lead to the refusal of a planning application that should have otherwise been permitted. They consider that wasted expense was also caused by the Council requesting further submissions even though they objected to the principle of the proposal.
4. In issues relating to matters of character and appearance, and living conditions, there is often a strong degree of judgement employed and the matters raised by the Council related to issues where there was a reasonable potential for difference of opinion.
5. I have not been provided with the full details and facts of applicant's examples set out in their submissions. Whilst other planning and appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts and evidence before those decision-makers or Inspectors at the time. Therefore, I cannot make any meaningful comparisons to the appeal scheme, which I must consider on its own merits.
6. I am satisfied that the Council suitably justified its concerns within its submissions. This included detailing the conditions of the site, its surroundings, the nature of the development and highlighting issues which it considered would result in harm to character and appearance. Therefore, whilst I found differently to the Council, to this extent they justified their decision-making.

7. The PPG sets out that preventing development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations can be unreasonable behaviour. In this case I have found differently to the Council, in that the proposal complies with the relevant policies. However, the Council clearly made reference to the policies, both local and national, that they considered the proposal to conflict with. As noted above issues of character and appearance often rely upon judgement, and I do not find that the relevant policies clearly required the development to be permitted.
8. I note that the Council requested further information to be submitted as part of the planning application, including a bat survey. I am mindful that this would have come at an expense and would not have altered the Council's concerns with the principle of the scheme as backland development. However, it is not clear that the Council had reached a determination on the principle of the scheme at the point at which they requested the additional information. Moreover, the additional information would likely have helped reduce the number of reasons for refusal. From the information before me, I do not find that this was unreasonable or resulted in wasted expense.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Samuel Watson

INSPECTOR