



Costs Decision

Site visit made on 7 May 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 3 June 2024

Costs application in relation to Appeal Ref: APP/P1805/W/23/3324998 10A & 10B Dale Hill, Blackwell, Bromsgrove, B60 1QJ

- 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 Bromsgrove District Council for a full award of costs against Foxhaven Developments Ltd.
- The appeal was against the refusal of planning permission for two detached bungalows.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. There are three claims to assess. Firstly, whether the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence. Secondly, whether the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period. Thirdly, whether the appellant provided information that is shown to be manifestly untrue or inaccurate.
4. In relation to the first and second claims, the grounds put forward in relation to the two previous appeals as to why the developments proposed were not inappropriate development relate to the exceptions in relation to the extension of an existing building, its replacement and limited infilling on previously developed land. No evidence has been submitted that the argument had previously been made that development on the site would constitute limited infilling in a village / Green Belt settlement as allowed for by paragraph 154 e) of the Framework and policy BDP 4.4 f) of the District Plan. Similarly, whether services and facilities were accessible from the site by sustainable modes was not grappled with in either of the two previous appeals.
5. Highway safety was also not a reason for refusal covered by previous appeals in relation to the site. Given that it appears that no technical evidence was provided by the Council stating the visibility splays that would normally be required for the speed limit of the road, the appellant was not to be aware that

the suggestion of simply cutting back vegetation on either side of the access would not ensure the access would be safe.

6. As assessing the effect of a proposal on the character and appearance of an area involves planning judgement, and a previous inspector found that the proposal to extend a now demolished building on the site would not cause harm in this regard, the appellant behaved reasonably in asserting his view that the proposed scheme would also not be harmful. With regard to noise, the appellant relies on the noise report that accompanied the original application in relation to the site which he states found that noise levels could be reduced to acceptable levels by the provision of acoustic fencing. Whilst I did not agree with this position, due to this report and the associated 2015 plans not being submitted, the appellant did not act unreasonably in making this association.
7. In relation to the last two main issues, as I found that the proposed development would be acceptable in these regards, the appellant did not act unreasonably in contesting these matters either.
8. Turning to the last claim, there can be no doubt that in 2017 the appeal site was located within the Green Belt. This is because the site was in the Green Belt when the 2015 appeal decision was determined. The appellant therefore acted unreasonably in this regard by making a manifestly untrue statement. The date of the allowed appeal on the site was also incorrectly quoted by the appellant as 2018 when it was actually 2015. Whilst I recognise these may have been genuine mistakes, it had the potential to confuse and it is a reasonable expectation that those participating in an appeal check their statements for accuracy before submission. The inclusion of these two errors was therefore unreasonable behaviour.
9. However, as their correction would have been a simple matter of advising the case officer by email of these errors, which would have taken only a few minutes, this did not result in material unnecessary expense on the part of the Council.
10. Taking all these matters into account, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Ian Radcliffe

Inspector