



Costs Decision

Site visit made on 11 June 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2024

**Costs application in relation to Appeal Ref: APP/D4635/W/23/3330364
Land at 390996-301925, to the rear of 2-30 Eccleshall Avenue,
Wolverhampton WV16 6TW**

- 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 Poonia for a full award of costs against the City of Wolverhampton Council.
 - The appeal was against the refusal of planning permission for residential development for one dwelling.
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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 claims that the Council has acted unreasonably by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations; and that the Council has failed to produce evidence to substantiate each reason for refusal.
4. The applicant's claim is based on the Officer's recommendation to approve the proposal, which was supported by advice from the Chief Highways Officer, being overturned by the Planning Committee Members.
5. The minutes which have been provided with evidence are sufficiently detailed to show that the members raised concerns relating to the effect of the proposed development on highway safety and health and safety, in regard to the access to the site. Members are not bound to follow the advice of officers and the minutes do not have to fully substantiate each reason for refusal or provide objective analysis of the effects of the proposal. I also have no substantive evidence that the members did not take appropriate account of the benefits of the scheme or carry out an appropriate planning balance, as asserted by the applicant.
6. The Council, within their statement of case, have clearly set out the reasons why the development was not acceptable. The Council has substantiated each of the reasons for refusal and related the concerns to relevant development plan policies. The Council has, therefore, not failed to produce evidence to

substantiate each reason for refusal or relied on vague, generalised, or inaccurate assertions about the effect of a proposal.

7. Although I have reached a different conclusion on the effect of the proposal on highway safety, I have found harm to health and safety and harm from the lack of appropriate access for emergency vehicles. For these reasons, I have found that the Council had reasonable concerns about the proposed development which justified its decision. The applicant had to address those concerns in any event and therefore the appeal could not have been avoided.
8. I therefore have no substantive evidence that the Council has acted unreasonably in the appeal. As such, there can be no question that the applicant has incurred unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

K Townsend

INSPECTOR