
Costs Decision

Site visit made on 23 June 2025

by **S Burch BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 July 2025

Costs application in relation to Appeal Ref: APP/P4605/W/25/3363240

Land rear of 12-24 Clive Road, Quinton, Birmingham, B32 1HN

- 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 Mrs K Kaur for an award of costs against Birmingham City Council.
 - The appeal was against the refusal of outline planning permission for the erection of 2no. self-build dwelling houses dealing with matters of access, layout and scale, with appearance and landscaping reserved.
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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. Unreasonable behaviour on the part of a local planning authority may include 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, acting contrary to, or not following, well-established case law, or not determining similar cases in a consistent manner.
4. Firstly, the applicant contends that the Council behaved unreasonably by not responding to the agent's emails and not providing consultee comments including comments from Leisure Services and the ecologist's request for further information. Whilst not providing consultee comments may have been somewhat unreasonable, I do not consider that it has resulted in unnecessary or wasted expense. The Leisure Services team requested a contribution of £80,000 to offset the loss of the tennis courts. However, the applicant had previously indicated that they were willing to contribute £9,000, substantially less than the requested figure.
5. Regarding the ecologist's request for further information, the Council did not consider that this could have been provided within the timeline for the application. Furthermore, given the Council had concerns regarding the principle of development, they did not see it appropriate to request this further information. Policy TP8 of the Birmingham Development Plan (2017) is clear that development proposals which are likely to affect any species must be supported by adequate information to ensure that the likely impact of the proposal can be fully assessed. The onus is on the applicant to provide such information at application stage. Not specifically requesting this information is not unreasonable, nor has it resulted in wasted or unnecessary expense.

6. The applicant also contends that the additional ecology information could have been dealt with via a planning condition. However, notably the original Preliminary Ecological Appraisal pointed towards the presence of badgers, a protected species, in recent years. It is however essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted. Given this, it would not have been appropriate to deal with this through a planning condition. The Council have not acted unreasonably on this point.
7. Turning to the second point, the applicant contends that pre-application advice suggested abandonment. Whilst I acknowledge that a pre-application advice response (2024/01322/PA) did outline how given the circumstances of the site, factors 1,2 and 4 of the four factors of abandonment, as set out by case law, point towards abandonment, it did not firmly conclude that abandonment had taken place. In any instance, I am mindful that pre-application discussions are informal and not binding on any future decision the Council may make once a proposal has been subject to the formal planning process. Furthermore, even if the Council had not included the first reason for refusal, the scheme still would have been refused on the second reason for refusal, therefore in any case, the applicant was not put to unnecessary or wasted expense.
8. Finally, the applicant outlines that the Council attempting to secure a contribution reinforces their unreasonable behaviour. Although I do not agree with the Council's stance on the first reason for refusal, they have clearly set out their reasoning behind it. Following their logic, they have not behaved unreasonably by requesting a contribution to offset the loss of the tennis courts.

Conclusion

9. Based on my reasoning above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For the reasons set out, and having regard to all other matters raised, an award for costs is therefore not justified.

S Burch

INSPECTOR