

Costs Decision

Site visit made on 5 August 2025

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

Costs application in relation to Appeal Ref: APP/P4605/W/25/3358858

Land at Ridgacre Road West, Birmingham B32 1AX

- 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 Stax Ltd for a full award of costs against Birmingham City Council.
 - The appeal was against the refusal of planning permission for the erection of 12 apartments with all matters reserved for future consideration (except access).
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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 parties in planning appeals normally meet their own expenses. However, it goes on to state 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. Moreover, although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
3. Unreasonable behaviour in this context can be taken to be either procedural, relating to the process; or substantive, relating to the issues arising from the merits of the appeal. In this case, the allegations from the applicant are based on both substantive and procedural grounds.
4. Paragraphs 047 and 049 of the Planning Practice Guidance offer some examples of unreasonable behaviour by local planning authorities, albeit neither list is exhaustive. For the purposes of this application, this includes 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. It is also alleged that the Council has failed to produce evidence to substantiate each reason for refusal on appeal.
5. The evidence provided by the applicant indicates there was some upheaval with regards to staffing at the Council, although the appellant provided both noise and air quality reports and mitigation measures for both matters relating to the scheme. The approval of other schemes with noise or air quality issues is not proof of unreasonable behaviour as each proposal is assessed on its own merits. However, the air quality report was evidently assessed in error with a misinterpretation of the data by the Council.

6. Ultimately, the decision by the Council to not contest any of the reasons for refusal and accept the findings of both the noise and air quality reports and mitigation means that the appeal was not necessary. The appellant has been made to incur additional expense to challenge these reasons for refusal at appeal and while the Council admitting fault and mistakes is refreshing on the one hand, it also results in culpability for an appeal which could have and should have been approved at the application stage based on the evidence available at that time.
7. I note that the objection of the National Grid (NG) with regards to the other reason for refusal was reasonable given the proximity of the pylon to the development site, but this consultation was not undertaken until considerable time after the application was registered. Following some amendments to the scheme, the NG removed their objection in time for the appeal. Again, this could have been resolved at the application stage.
8. Accordingly, I find that the applicant has incurred unnecessary expense in the appeals process on this ground as a result of unreasonable behaviour. Although it is admirable for the Council to admit fault and not defend spurious reasons for refusal at the appeal stage which may have resulted in further work, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

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 Birmingham City Council shall pay to Stax Ltd, 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.
10. The applicant is now invited to submit to Birmingham City 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.

C McDonagh

INSPECTOR