
Costs Decision

Site visit made on 8 November 2016

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6th December 2016

Costs application in relation to Appeal Ref: APP/Y3940/W/16/3155687 Longdon, Bath Road, Marlborough SN8 1NN.

- 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 N Mallaburn of Spring Homes Ltd for a partial award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for: "Proposed demolition of existing dwelling and replace with 3 No. family dwellings, including garages, parking, turning areas and shared use of the existing vehicular access on land within the garden of Longdon, Bath Road, Marlborough, Wiltshire".
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Decision

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

Reasons

2. The Planning Practice Guidance 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 considers that the Council has behaved unreasonably in relation to its assessment of the trees on the site. In particular, the applicant states that the loss of trees, T20 and T21, was not fully and properly assessed by the Council at formal application stage, which necessitated a further Arboricultural Report and the associated expense.
4. It is clear from the Planning Officer's delegated report that the removal of trees T20 and T21 was an issue which contributed to the Council's concerns about the proposed development. Whilst it is apparent that the Council's Tree Officer did not initially object to the proposed development, the removal of trees was cited in the Council's first reason for refusal and was clearly a significant issue.
5. The applicant is concerned that a Tree Preservation Order (TPO) was made after the planning application had been refused¹. Nevertheless, in view of the Planning Officer's delegated report and the reason for refusal, the applicant would have needed to substantiate the case for the removal of trees T20 and T21 as part of the Appeal Statement, irrespective of the subsequent TPO.
6. The Tree Survey and Arboricultural Method Statement, submitted with the planning application, responded to the Council's concerns about the proposed

¹ 29 September 2016

removal of trees T20 and T21, albeit that the applicant chose to supplement this evidence after the TPO had been made.

7. To conclude, I do not consider that the Council changed its overall opinion with regard to the removal of the trees. Moreover, I have found that the Council had reasonable concerns about the impact of the development which justified its decision.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Debbie Moore

Inspector