
Costs Decision

Site visit made on 27 April 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 01st June 2017

Costs application in relation to Appeal Ref: APP/F1610/W/16/3165283 Land North of Tesco, Stow on the Wold, Gloucestershire GL54 1WH

- 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 McCarthy & Stone Retirement Lifestyles Ltd for a full award of costs against Cotswold District Council.
 - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of a planning permission for development of 44 extra care apartments and green open space (outline application with access to be determined) and the construction of a 48 bed dementia care home with associated access, car parking and landscaping (full application with all details to be determined).
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Decision

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

Procedural Matter

2. I have taken into account the Government's Planning Practice Guidance (PPG), issued on 6 March 2014, in reaching my decision.

Reasons

3. The PPG advises that, irrespective of the outcome of the appeal, costs may only 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.
 4. The applicant claims that the Council acted unreasonably in refusing planning permission for the following reasons: failure to allow development that should have clearly been permitted; that its decision notice does not state clearly and precisely its full reasons for the refusal, not particularising how harm would be caused in any meaningful way or how it might be remedied; and failure to demonstrably engage with the benefits of the scheme and to carry out a proper planning balance.
 5. I am satisfied, based on the contents of the officer report and advice recorded in the Planning Committee minutes, that Members were fully aware of the background in terms of the principles established at the outline stage, when the benefits of providing such accommodation were taken into account. Nevertheless, they were entitled to take the opposing view to their officers that the design of the scheme was not of a sufficient standard, within the context of the Area of Outstanding Natural Beauty, to outweigh the benefits.
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6. Furthermore, the Council clearly set out its reason for refusal and the nature of the harm identified in the decision notice, albeit without going into great detail, with reference to relevant development plan and national policy. It also referred to the balance in respect of weighing the harm against the benefits of providing an extra care facility.
7. Notwithstanding my conclusions set out in the appeal decision, I am also satisfied that the Council adequately explained the reasons for refusal in detail within its appeal statement. Furthermore, the level of the detail is such as to indicate how the concerns could have been addressed had the appeal been dismissed, even if not explicitly stating that.
8. In conclusion, for the above reasons, I find that the Council did not behave unreasonably in determining the application and that, therefore, the applicant's costs in pursuing the appeal were not unnecessarily incurred or wasted. For this reason, and having regard to all other matters raised, neither a full or partial award of costs is justified.

Andrew Dawe

INSPECTOR