
Costs Decision

Site visit made on 28 June 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 9th August 2017

**Costs application in relation to Appeal Ref: APP/D3125/W/16/3163683
Little Willow, Oxford Road, Eynsham, Witney, OX29 4BT.**

- 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 and Mrs E Price & Ms J Hoggett for a full award of costs against West Oxfordshire District Council.
 - The appeal was against the imposition of a condition No.4 imposed on the granting of planning permission for the erection of a replacement amenity block.
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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 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 application is made on the basis that the Council's reasons for imposing the condition no.4 were imprecise and unreasonable and not relevant to the planning status of the site. The condition therefore did not meet the relevant tests laid out in government advice.
4. I have taken account of the fact that the Council's representative was, initially, not allowed access to the site in order to prepare the representations for the appeal and therefore the written statement is likely to have been longer than that normally required in order to set out the complex circumstances of the site.
5. Nevertheless the Council must have been aware of the recent planning history of the site when it dealt with planning application 16/01589/FUL. The imposition of condition No.4 is a complex condition regulating the use of the replacement amenity block, which was allowed on a permanent basis, but requires its demolition if it is no longer needed or if the Price family sell the site. In these circumstances, the reason given for the imposition of the condition, "In the interests of visual and residential amenity" is wholly inadequate.
6. I agree with the appellants that the condition is not reasonable on its face. It does not accord with the planning status of the site as recently accepted by the Council; and the reason given for it does not explain why it is necessary. There is no reference to the personal circumstances put forward as accepted by the

Council as justifying the erection of the building. Overall, on the planning appeal I found that the terms of the condition did not fulfil a proper planning purpose or meet the tests set out in government policy guidance.

7. The Council has submitted lengthy representations to subsequently explain its case, but the complete reasons for a planning decision must be set out within the four corners of the planning document at the time that it is made rather than be elucidated later.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

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 West Oxfordshire District Council shall pay to Mr and Mrs E Price & Ms J Hoggett, 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 the 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.

David Murray

INSPECTOR