
Costs Decision

Site visit made on 8 November 2017

by Lynne Evans BA MA MRTPI MRICS

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

Decision date: 29 November 2017

**Costs application in relation to Appeal Ref: D3125/D/17/3181009
Fardon House, Frog Lane, Milton-under-Wychwood, Chipping Norton OX7
6JZ**

- 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 & Mrs P R & D A Horner for a full award of costs against West Oxfordshire District Council.
 - The appeal was against the refusal of planning permission for construction of garden shed (retrospective) and greenhouse.
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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 Applicant has contended that the Council failed to work positively with them and unreasonably delayed and inhibited the grant of permission made, and, have not produced evidence to substantiate their concerns leading to a refusal of permission.
4. In terms of procedural issues there is no evidence before me to demonstrate that the Council unreasonably delayed the processing of the application and the decision; as advised by the Council it processed the application within the eight week timescale. Notwithstanding that the application was in part for development already undertaken, there is no evidence that the Applicant engaged in pre-application discussions with the Council which was an available course of action. I therefore find that unreasonable behaviour resulting in unnecessary expense as a result of procedural unreasonableness has not been demonstrated.
5. In respect of the substantive issues, the decision notice comprised one reason for refusal relating to both harm to the character and appearance of the local area and Area of Outstanding Natural Beauty and harm to the living conditions of adjoining neighbours, with particular reference to those at Stoneham House. In respect of the first issue and although I have come to a different conclusion to the Council, I consider that the Council did substantiate its concerns and conflict with the development plan.
6. However, in respect of the second issue, the Council has made references in

the refusal notice and the officer's report to such matters as 'likely intensification of the use' and 'unacceptable levels of noise and disturbance and loss of privacy'. However, there is no evidence before me to explain their concerns, particularly with regard to such matters. It is incumbent on the Council to substantiate its reason for refusal by producing relevant evidence which demonstrates the alleged harm and conflict with the development plan. This has not been done in my view in respect of this issue; neither demonstrable harm nor conflict with the development plan, substantiated by evidence, was shown to arise from the development with regard to these matters.

7. 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 partial award of costs is justified.

Costs Order

8. 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 & Mrs P R & D A Horner the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred by the Applicant in pursuing the appeal against issues relating to the effect on the living conditions of the neighbours; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to West Oxfordshire District Council to a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

L J Evans

INSPECTOR