



Costs Decision

Site visit made on 4 February 2019

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2019

Costs application in relation to Appeal Ref: APP/Y1110/W/18/3212951 Ringswell Avenue, Exeter, Devon, EX1 3EG.

- 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 Westco Properties Limited and Exeter Royal Academy for Deaf Education for a full award of costs against Exeter City Council.
 - The appeal was against the refusal of planning permission for the erection of 48 dwellings (use class C3), means of access, public open space and associated infrastructure.
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Decision

1. The application 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. Members of the Council are not bound to accept the advice of their officers. Nevertheless, when refusing applications clear, precise and specific reasons must be given and at appeal evidence must be submitted to substantiate reasons for refusal. Vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, could result in an award of costs.
4. In refusing permission contrary to the advice of its officers, including the Local Highway Authority (LHA), the Council gave clear, precise and specific reasons relating to congestion along Honiton Road and the potential risk to highway safety interests along Ringswell Avenue. Whilst it disagreed with the recommendation of its officers this does not mean that the Council ignored that advice or the information submitted in support of the planning application.
5. The appellants' own Transport Assessment (TA), the consultation response from the LHA and the representations from some local residents (who are very familiar with local traffic conditions) all revealed that congestion takes place along the Honiton Road during the peak hour periods. Moreover, both the TA and the LHA recognise that the proposal would add to this congestion.
6. Although I have not found in the Council's favour, it did not act unreasonably in deeming the existing highway situation unacceptable and, in effect, arguing that the increase in congestion would add to the severity of an existing problem relating to the free flow of traffic along an important commuter corridor.

7. There was also evidence in the TA, as well as from the representations made by some residents of Ringswell Avenue, of vehicles parking inappropriately during the school drop off/pick-up periods and of the drivers of cars having to reverse along this street when meeting oncoming vehicles. Whilst vehicle speeds during this period are slow and there are no recorded incidents of accidents or injuries, it was not unreasonable for the Council, who were properly concerned about the safety of vulnerable members of society, to contend that the proposal would add to these difficulties and increase the risk of an accident. For a development of 48 dwellings with access adjacent to a primary school it was incumbent on the appellants to demonstrate that highway safety interests would not be compromised. It did not therefore incur unnecessary or wasted expense in submitting highway evidence.
8. It is also not lost on me that it was not until after my site visit that the appellants submitted a completed Agreement under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended). This Agreement included matters relating to traffic speeds within the appeal site and the provision of a pedestrian cycle link. Both of these have a bearing on the issues in dispute between the main parties. In the absence of such a completed Agreement, in effect, the Council's actions were somewhat incidental to the delay in the development being able to proceed.
9. I find that the Council did not act unreasonably in refusing permission and did not cause the appellant to incur unnecessary or wasted expense. This costs application should not therefore succeed.

Neil Pope

Inspector