



Costs Decision

Site visit made on 26 June 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2019

Costs application in relation to Appeal Ref: APP/Y3940/W/18/3217842 Forest View, Clay Street, Whiteparish, Salisbury, Wiltshire SP5 2ST

- 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 Mark Richards of Zelda Investments Ltd for a full award of costs against Wiltshire Council.
- The appeal was against the refusal of planning permission for additional dwelling on land of Forest View including parking spaces.

Decision

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

Reasons

2. The Planning Practice Guidance¹ (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG² lists different types of behaviours which may give rise to a substantive award against local planning authorities.
3. The applicant considers that the Council ignored the findings of a previous appeal decision, having particular regard to the access to the site. It is also argued that whilst the previous scheme³ included a reason for refusal in respect of nature conservation issues, the revised application⁴ was determined prior to having obtained a consultation response from the Ecology Officer.
4. The decision referred to by the applicant is not expressly identified, but the information submitted as part of the appeal indicates that the concerns relate to appeal APP/Y3940/W/17/3173551. The Inspector sought to address the concerns raised by some residents, who queried whether the appellant had a legal right-of-way over Clay Street and also a right of way over alleged common land, and noted that such matters are generally for consideration outside the planning process.
5. The Case Officer's report acknowledges that legal rights to access the site other than on foot are in essence a private, civil matter, which suggests that the Inspector's comments were not ignored.
6. Notwithstanding the above, the Council remains concerned that in the absence of such rights, car parking spaces could not be provided as part of the

¹ Paragraph: 030 Reference ID: 16-030-20140306.

² Paragraph: 049 Reference ID: 16-049-20140306.

³ Local Planning Authority Reference 18/06027/FUL.

⁴ Local Planning Authority Reference 18/08738/FUL.

development, thus conflicting with Core Policy 64 of the Wiltshire Core Strategy (WCS). Whilst I have taken a different approach on this particular matter, I consider that the Council did not act unreasonably in raising concerns about the implications on the provision of car parking.

7. I understand that a previous scheme was notably refused on ecology issues, but this is not the case of the proposal before me. Having regard to the available evidence, I am unable to conclude that the Council acted unreasonably by not refusing the appeal scheme on nature conservation issues.
8. I therefore find that unreasonable behaviour or wasted expense, as described in the PPG, has not been established. For this reason, I conclude that an award of costs is not justified.

S Edwards

INSPECTOR