
Costs Decision

Site visit made on 29 August 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2019

Costs application in relation to Appeal Ref: APP/V3120/W/19/3228667 Land to the rear of 10 Halls Close, Drayton, Abingdon OX14 4LU

- 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 Blue Cedar Homes Limited for a full award of costs against the Vale of White Horse District Council.
 - The appeal was against the refusal of outline planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
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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 (PPG) advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The examples it gives of unreasonable behaviour which may lead to a substantive award of costs against a local planning authority include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and, failing to produce evidence to substantiate each reason for refusal on appeal.
 4. The applicant claims that the Council ignored the advice of its professional officers who had recommended the application be permitted, and that a proper consideration of the proposals against the development plan should have indicated to the Council that the condition should be removed.
 5. The Council amplified its reasoning for refusing the application, and did not behave unreasonably in regard to substantiating its case. However, there was, in my conclusion, no conflict from the proposal with the planning policy cited by the Council in its decision notice, and no necessity to retain the condition it refused to remove.
 6. The Council is not bound to follow the professional advice of its officers, who in this case recommended approval. However, the application to remove the condition should clearly have been permitted, because having regard to the development plan, it was unnecessary and unreasonable.
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Conclusion

7. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the PPG, has been demonstrated and that a full 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 the Vale of White Horse District Council shall pay to Blue Cedar Homes Limited 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.
9. The applicant is now invited to submit to the Vale of White Horse District 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.

Patrick Whelan

INSPECTOR