
Costs Decision

Site visit made on 5 February 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Costs application in relation to Appeal Ref: APP/U3935/W/19/3241592 Woodlands, High Street, Wanborough, Swindon SN4 0AE

- 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 Les Duncan for a full award of costs against Swindon Borough Council.
 - The appeal was against the refusal of planning permission for the erection of one three-bedroom detached dwelling, with associated access, vehicle parking and landscaping.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant asserts that the Council's conservation officer did not conduct a site visit and consequently made inaccurate assertions in his consultation response, upon which the case officer relied. It is further his view that had the conservation officer acted otherwise then the outcome of the planning application could have been different, thereby avoiding the need for an appeal.
4. PPG further indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal, or rely upon vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. I am referred to PPG advice¹ which cites failing to attend or to be represented at a site visit, hearing or inquiry without good reason as an example of unreasonable behaviour by a local planning authority. However, this is prefaced by reference to behaviour relating to procedural matters at a planning appeal rather than a planning application.
6. Moreover, the reasons for refusal set out in the decision notice are reasonably specific and relevant to the application and each one identifies which policies in the development plan the Council considered to be most relevant. These reasons were adequately substantiated by the Council in its delegated officer

¹ Paragraph 047 ID 16-047-20140306

report that identified the characteristics of the site and outlined the nature of the harm resulting to the character of the area using the evidence submitted by the applicant, the Council's observations and consideration of the consultation responses received. Overall, the evidence does not demonstrate that the Council came to an uninformed view.

7. Furthermore, the main issue in relation to the impact of the proposal on the character and appearance of the area essentially required an exercise of planning judgement. The Council provided evidence that was sufficiently detailed and specific to substantiate their case that indicates that they exercised that judgement reasonably. Moreover, as will be seen from my decision, I agreed with some of their concerns raised. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case.
8. The appeal provided an opportunity to test the planning judgement made by the Council and the appellant has not been put to unnecessary or wasted expense in doing so.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Helen O'Connor

Inspector