



Costs Decision

Site visit made on 20 January 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2020

Costs application in relation to Appeal Ref: APP/V3120/W/19/3238068 East Paddocks, Milton Road, Drayton, Abingdon OX14 4EF

- 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 J Wenman for a partial award of costs against Vale of White Horse District Council.
 - The appeal was against the refusal of planning permission for erection of detached dwelling and garage following demolition of existing garage.
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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 and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. This application claims unreasonable behaviour by the Vale of White Horse District Council (VWHDC) in terms of refusing planning permission partly on unjustifiable highway grounds and only withdrawing this reason for refusal after the appellant had prepared an unnecessary response.
3. The PPG¹ states that local planning authorities are at risk of an award of costs by failing to produce evidence to substantiate each reason for refusal. No evidence has been submitted in respect of the VWHDC's third refusal reason relating to highway issues apart from Oxfordshire County Council's (OCC) comments on the planning application dated 28 May 2019. These raised concerns that the appeal development would generate new peak time vehicular trips that would add to congestion centred around Culham Bridges and that subsequent unorthodox vehicular manoeuvres would prejudice highway safety. Also, it is stated that OCC would object to any development in locations such as the appeal site that would add new peak hour trips to an extremely sensitive part of the network.
4. In a statement submitted with the VWHDC's appeal document, OCC advised that since its initial comments, further traffic modelling work has demonstrated that there are alternative routes available to the appeal site that avoid the Culham River crossing. Consequently, OCC withdrew its objections.

¹ PPG Paragraph: 049 Reference ID: 16-049-20140306 Revision date: 06 03 2014

5. OCC's second comments significantly contrast with its initial strong objections to the proposal. No explanation has been provided as to why the alternative routes to serve the appeal development were only identified through the further modelling work or why they were not apparently considered by OCC in their initial assessment of the proposal. The simple reference to further modelling work fails to adequately explain OCC's change in view on the proposal's impact on highway congestion and safety.
6. Furthermore, whilst there may be highway capacity issues at Culham Bridges, no evidence demonstrates how OCC or VWHDC have taken into account the likely levels of traffic generated by the proposed dwelling and the specific impact of that traffic on the highway network. Instead, an unsubstantiated general objection to all development in the area appears to have been applied.
7. As a highway authority, OCC are a statutory consultee on planning applications in the area and VWHDC have a responsibility to have regard to any OCC comments in the determination of planning applications. However, VWHDC are not bound to follow any OCC recommendation, but should consider the validity of such comments and attribute weight accordingly.
8. For the above reasons, I find that VWHDC have acted unreasonably by failing to provide any substantive evidence to support the third refusal reason relating to highway congestion and safety. Whilst the refusal reason was withdrawn, this was after the appellant had prepared and submitted appeal documents to contest the highway objection. There was no requirement for the appellant to approach VWHDC or OCC before submitting the appeal to ascertain whether the refusal reason was still valid. The appellant's actions in response to the highway refusal reason are entirely understandable, but because of VWHDC's unreasonable behaviour these actions have been the cause of wasted expense.
9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. A partial award of costs is justified to cover the expense incurred by contesting the Council's reason for refusal relating to traffic congestion and highway safety.

Costs Order

10. 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 Vale of White Horse District Council shall pay to Mr J Wenman, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the third Council refusal reason concerning the road network not being able to accommodate traffic arising from the development and causing safety and congestion problems; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the 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.

Jonathan Edwards

INSPECTOR