
Costs Decision

Site visit made on 29 June 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2020

Costs application in relation to Appeal Ref: APP/Y3940/W/19/3242715 Land Adacent 1 Witt Road, Winterslow, Wiltshire SP5 1PL

- 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 Kents Oak Ltd for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for the erection of 3 detached dwellings, garages, parking and access following demolition of 3 existing buildings.
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Decision

1. The application for costs is refused.

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Planning Practice Guidance states that examples of unreasonable behaviour by Local Planning Authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. Firstly, with regards the drainage reasons for refusal, it is apparent that the applicant did not know about these issues until after the decision had been made. This has meant that this issue has had to be addressed during the appeal process. Further information was submitted, and the Council confirmed that the relevant reasons for refusal have been overcome.
5. Whilst the issues of drainage did not get addressed as they could have done during the planning application process, these issues did need to be dealt with at some time. As such, the costs of preparing the information relating to drainage would have been necessary even if it was raised by the Council prior to determination of the planning application. Furthermore, there was also the highway reason for refusal of the planning application and so if this drainage issue was addressed at the planning application stage, I am not persuaded that it is likely that the appeal would have been avoided. Therefore, it has not been sufficiently demonstrated that the actions of the Council with regards the drainage issues led to additional costs for the applicant.

6. With regards the highway safety issue, I acknowledge that initially it seems that the Council had not responded to the submitted 'Highway Written Representation' with this appeal. There has now been a response from the Council, with a further subsequent response from the applicant's highways consultant engineers. Whilst this may have resulted in some delay with the process, this was all completed in the time before the Inspector site visit and therefore had no bearing on the time the appeal decision was issued.
7. Overall, all the evidence from the Council submitted for this appeal sufficiently detailed their highway objections, then concluded against relevant policies. Whilst I have found in favour of the applicant with the appeal on this issue, I do not regard the Council's behaviour in refusing the planning application as unreasonable as it is recognised that Witt Road is narrow and the junction with The Common having some limits to its visibility, even if this is to some extent due to overhanging vegetation. Furthermore, it has not been sufficiently demonstrated how the timing of the Council's response to the applicant's highway evidence has led to additional costs.
8. Overall, I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

S. Rennie

INSPECTOR