



Costs Decision

Site visit made on 5 January 2021 by Scott Britnell MSc FdA MRTPI

Decision by R C Kirby BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2021

Costs application in relation to Appeal Ref: APP/X0360/W/20/3256679 Workshop at land to the rear of 20 & 22 Station Road, Twyford RG10 9NT

- 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 Ray Cook for a full award of costs against Wokingham Borough Council.
 - The appeal was against the refusal of planning permission described as demolition of the existing workshop and construction of a new 1-bed dwelling.
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Decision

1. The application for costs is refused.

Application Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the application.

Reasons for the Recommendation

3. The Planning Practice Guidance 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.
4. The unreasonable behaviour alleged is substantive and the applicant has identified 4 areas where he considers this behaviour has been exhibited by the Council. These are that the Council prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other material considerations; that the Council have made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; that they persisted in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector previously indicated to be acceptable; and that they did not determine similar cases in a consistent manner.
5. As I have found in regard to the substantive appeal, the proposal is not in accordance with the development plan and national policy. Further, there are no other material considerations to indicate that a determination should be made other than in accordance with the plan. I therefore find that the Council have neither prevented nor delayed development which should clearly be permitted having regard to its accordance with the development plan, national policy and other material considerations.

6. Matters such as a proposal's impact on the character and appearance of an area are largely subjective. I am satisfied that the Council, through its refusal reason and appeal statement have substantiated its concerns about the proposal, setting out, amongst other matters, the existing form of development in the area and the effect of the proposal on the character and appearance of the Twyford Station Conservation Area (TSCA). I have also been provided with a copy of the minutes from both Committee meetings where the application was considered. It is clear from these that the above issues were discussed and that Councillors took account of their Officer's views. I do not consider, therefore, that the Council have made vague, inaccurate, generalised or inaccurate assertions about the proposal's impact, unsupported by any objective analysis.
7. The applicant indicates that the proposal was prepared following the comments made by the Inspector at the previous appeal¹. However, no alternative scheme was before the Inspector at that time, including the current appeal proposal. Further, the Inspector of the previous appeal commenced his conclusions by stating, 'Whether or not such alternatives are both feasible and acceptable to the parties in this appeal'. In my view, this is an indication to both parties that it is for them to consider whether his comments would be acceptable. For the appellant, this means knowing that it is for the Council to determine any future scheme on its merits. As such, I do not consider that the Council's decision was inconsistent with previous decisions or that they did not determine similar cases in a consistent manner. Moreover, I find that the Council have not persisted in objecting to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable, as alleged.
8. I acknowledge that the officer's recommendation to the Planning Committee was that planning permission should be granted for the new dwelling. However, members are entitled to make a judgement based on their own consideration of a development proposal. In this case, it appears that this was made following consideration of a detailed officer report setting out the main issues, representations made, including from the Planning Team Manager and the Borough Solicitor, the development plan and consideration of the previous appeal decision upon the appeal site. Councillors also undertook a site visit where they would have been able to make their own assessment of the impact of the proposal. While the decision that they made was contrary to the Officer's recommendation, the actions that members took do not demonstrate unreasonable behaviour in this regard.
9. In light of the above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated.

Conclusion and Recommendation

10. For the reasons given above, I recommend that the application for costs should be refused.

Scott Britnell

APPEAL PLANNING OFFICER

¹ APP/X0360/W/19/3221229.

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for costs is refused.

RC Kirby

INSPECTOR