

Costs Decision

Site visit made on 22 March 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2021

Costs application in relation to Appeal Ref: APP/V3120/W/20/3264528 2 Tennyson Drive, Abingdon OX14 5PD

- 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 Mrs Lee Kelsey for a full award of costs against Vale of White Horse District Council.
 - The appeal was against the refusal of planning permission for extension and conversion of existing house into four new dwellings, 2x2 bed flats and 2x1 bed flat with associated parking.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The application experienced significant delays during its consultation period, notably in regard to liaison with the Highway Authority. Some of the delays can be explained by the restrictions placed on officer site visits during the Covid-19 lockdown. The remainder were the result of toing and froing as the appellant sought to challenge the highways response. The matter was resolved in the appellant's favour when a senior officer reviewed the case. The original highway officer raised additional concerns that should have been voiced sooner, but ultimately it was a difference of professional opinion over the application of maximum parking standards. The appellant incurred the expense of appointing a highway consultant but this was a necessary part of the process of engaging with the Highway Authority.
4. The District Council was entitled to rely upon expert advice from its consultee, even if that advice was far slower than might be ideal. Bearing in mind the extenuating circumstances of the global pandemic, and the pressures placed on public bodies during this time, I do not consider that the delays incurred constitute unreasonable behaviour. I have noted that the case officer maintained reasonable communication with the applicant throughout the process.
5. The appellant has various grievances in relation to the committee debate and argues that this was not based on an accurate knowledge of the site. Despite lockdown restrictions, the site is clearly visible from the road and members would have been able to visit individually prior to the committee. For those

unable to do so, I am told that photographs of the site and its surroundings were made available as part of a presentation with the proposed plans. It is evident that there was discussion at the meeting on the merits of the application. The nature of debate varies between committees, and it is not for me to pass judgement on whether this particular committee adhered to its own protocols – that is a matter for the Council. The question for me to consider is whether the decision arrived at by members has been substantiated with evidence.

6. The refusal reason is clear and specific and cross-referenced to development plan policy. It is not uncommon in my experience for professional officers to assist members with the framing of their objections. The Council's statement of case expands upon the refusal reason by describing the character of the area and explaining how the proposal would affect this. The evidence seeks to differentiate the appeal scheme from the development at 9 Masefield Crescent. Although the appellant cites this and other corner developments as precedents, the reality is that each is different in terms of its scale, design and surrounding context. None of the other schemes are directly comparable and therefore the Council was not guilty of dealing with similar cases in an inconsistent manner.
7. The appeal required the exercise of judgement concerning the impact on the character and appearance of the area. Given the degree of subjectivity involved it would not be appropriate to make an award of costs unless the local planning authority has failed to support its arguments with any objective analysis. In this case, the Council has been able to provide an explanation as to why it considers the proposal would harm the character and appearance of the area. Overall, I am satisfied that the concerns raised by the planning committee had a rational basis, even though I have concluded that the proposal would not have a material adverse impact on the character and appearance of the area.
8. Officers, having recommended the original application for approval, were not prepared to support a revised scheme and they were reluctant to provide constructive advice on what could make the proposal acceptable. Although a more helpful stance may have lessened the appellant's frustration, it would not have avoided the appeal in its entirety. The stated intention was to progress the appeal alongside a new application in order to allow an earlier start on site. On this basis, unnecessary or wasted expense has not been demonstrated.
9. It may be that the application could have been determined sooner, had the Covid-19 restrictions not been in place and the Highway Authority been more efficient in its consideration. Nonetheless, for the reasons set out above, unreasonable behaviour has not been demonstrated. The appeal could not have been avoided and therefore it follows that the costs incurred in preparing the appellant's evidence were required expenditure. Unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Robert Parker

INSPECTOR