



Costs Decisions

Site visit made on 16 June 2021

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Costs Application A:

**Costs application in relation to Appeal Ref: APP/V3120/W/21/3271143
Land adjoining No 38 Barrow Road, Shippon OX13 6JF**

- 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 Oxford Homes (Aston) Limited for a full award of costs against Vale of White Horse District Council.
 - The appeal was against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for proposed 4no. dwellings and works there to without complying with conditions attached to planning permission Ref P16/V3165/FUL, dated 24 August 2017.
-

Costs Application B:

**Costs application in relation to Appeal Ref: APP/V3120/W/21/3271137
Land adjoining No 38 Barrow Road, Shippon OX13 6JF**

- 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 Oxford Homes Limited for a full award of costs against Vale of White Horse District Council.
 - The appeal was against the refusal of planning permission for the erection of 2 no. dwellinghouses with associated operations.
-

Decision

1. In respect of Costs Application A, the application for an award of costs is refused.
2. In respect of Costs Application B, the application for an award of costs is refused.

Reasons

3. The Planning Practice Guidance (the 'PPG') advises that, irrespective of the outcome of the appeal, 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.
4. The respective costs applications essentially rely on the fact that the Council's Officers recommended that planning permission be granted for the respective proposals, but that the Council Members took a different course of action and refused planning permission for both applications without adequate reason to do so.

5. The PPG explains 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.
6. In this instance, the applicant asserts that the Council ignored the professional advice of its Officers, which included the Council's Conservation and Design Officer, who found both applications to be acceptable. They claim that the Council's reasons for refusal are 'spurious' and without substance.
7. In addition, they argue that the Council Members failed to afford appropriate weight to the applicant's fall-back position of an extant planning permission¹, which grants full permission for the erection of four dwellings at the appeal site with vehicular access off Barrow Road. In particular, in finding conflict with Policy SS4 of the Wootton and St Helen Without Neighbourhood Plan (the 'NP'), they argue that the Council Members failed to consider the significance of the extant planning permission, and the weight that should be attached to this, especially the approved location of Unit 4, which is sited in a similar location to Units 5 and 6, as proposed by Appeal Ref: APP/V3120/W/21/3271137.
8. In determining the respective appeals, I found that when considered on their individual merits and cumulatively as a comprehensive six-unit scheme, that the development of the site in the manner proposed would have an acceptable effect upon the character and appearance of the area. In addition, I found that the proposals would have a neutral impact upon and thus preserve the setting of the nearby Grade II listed buildings.
9. Notwithstanding the above, I also found that the development would conflict with Policy SS4 of the NP because it would result in development on land that forms part of a locally important vista, as identified by the NP. However, I found that this conflict was outweighed by other material considerations. These were (i) my overall conclusion on the main issue; and (ii) the appellant's fall-back position of an extant planning permission for the erection of four dwellings at the site, which, if completed, would result in a significant change to the locally important vista.
10. However, the main issue in respect of both appeals is a matter of planning judgement and it is for the decision maker to determine whether the development would have an acceptable effect upon the character and appearance of the area, including the setting of nearby listed buildings.
11. I recognise that my overall findings in respect of both appeals was different to the Council's assessment. However, the Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
12. The Planning Committee meeting minutes for both planning applications demonstrate that the Council Members had due regard to the extant planning permission, which was a material consideration in both cases.
13. In refusing planning permission for the respective planning applications, it is clear from the Planning Committee meeting minutes that the Council Members objectively assessed the respective proposals and identified conflict with the development plan. In particular, the Council Members compared the differing

¹ Council Ref: P16/V3165/FUL

site levels and ridge heights of the approved development and proposed dwellings, whilst also having regard to the layout of the revised proposals and the position of the proposed dwellings throughout the site.

14. Overall, I am satisfied that the Council Members substantiated the reasons for refusal in respect of both applications by undertaking an objective analysis. Therefore, despite my findings, I cannot agree that the Council relied upon vague, generalised or inaccurate assertions about the impact of the respective proposals. These were matters of planning judgement and Council Members were entitled to take a different view to their Officers and the applicant following their own objective analysis.
15. Accordingly, in respect of both appeals, I cannot agree that the Council acted unreasonably by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

Conclusion

16. For the reasons given, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in respect of Costs Application A and Costs Application B.
17. Accordingly, both applications for an award of costs are refused.

Christopher Miell

INSPECTOR