
Costs Decision

Site visit made on 6 September 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

Costs application in relation to Appeal Ref: APP/V3120/W/21/3269306 Land at Park Farm, East Challow

- 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 Crest Nicholson (Chiltern) for a full award of costs against Vale of White Horse District Council.
 - The appeal was against the refusal of planning permission for residential development of 39 dwellings, comprising a partial re-plan of details approved under application reference P18/V0744/RM, to include an uplift of 13 no. additional dwellings, revised housing mix across the relevant development parcels and associated development works.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. Planning permission was refused against professional advice. This in itself does not constitute unreasonable behaviour. Members are not bound to accept the recommendations of their officers. An award of costs would only be warranted where the Council cannot produce relevant evidence to show that there were reasonable planning grounds for taking a contrary view.
4. The decision on whether the proposed gardens would be adequate was a matter of planning judgement. The Council was entitled to give weight to the recommended garden sizes set out in its Design Guide. However, it also needed to have regard to previous decisions for the wider development and the importance of consistency in decision-making. The Council accepted comparable garden sizes in the 88 dwelling scheme. Although the authority has attempted to justify its position by reference to Covid-19, the proposed gardens would provide satisfactory levels of amenity. The failure to determine applications in a like manner, against the same design guidance, represents unreasonable behaviour.
5. The house type for Plot 60 is used extensively in the wider scheme. However, development plan policy has changed in the interim to require compliance with the Nationally Described Space Standard. The Council is required by law to use this policy as its starting point. However, it failed to take proper account of the fact that Plot 60 was already being built under an earlier permission. This is a

very significant material consideration which makes the decision to refuse planning permission both irrational and unreasonable.

6. The objection to the design of Plots 66-68 was supported by reference to the Design Guide. Although other dwellings within the development have a similar relationship to the road, none of those units present a blank gable wall. This is something the guidance seeks to avoid. In my decision, I have taken the view that the harm is minor and localised and that it is outweighed by the benefits of the scheme as a whole. However, this is a matter of planning judgement and the Planning Committee was entitled to take the contrary view. Accordingly, I do not consider that unreasonable behaviour has been demonstrated in relation to this part of the Council's decision.
7. Although the appeal could not have been avoided in its entirety, the objections relating to garden sizes and internal space standards were not well-founded. The appellant incurred unnecessary expense in responding to these aspects of the Council's case. Unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as defined in the PPG, has been demonstrated and therefore a partial award of costs is warranted.

Costs Order

8. In the 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 Crest Nicholson (Chiltern), the costs of appeal proceedings described in the heading of this decision, limited to those costs incurred in providing evidence in relation to garden sizes and internal space standards. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Vale of White Horse District 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.

Robert Parker

INSPECTOR