



Costs Decision

Site visit made on 19 April 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2022

Costs application in relation to Appeal Ref: APP/C3105/W/21/3285306 Land Adjacent To College Farm, Duns Tew Road, Hempton OX15 0QZ

- 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 JA Calcutt for a full award of costs against Cherwell District Council.
 - The appeal was against the refusal of planning permission in response to an outline application for the erection of a detached dwelling (3-bed) & associated works.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and so caused the costs applicant to incur unnecessary expense in the appeal process. This application claims unreasonable behaviour by the Council in terms of (i) failing to produce evidence to substantiate its refusal reasons, (ii) making vague or generalised, or inaccurate assertions about the proposal's impact, and (iii) preventing development which clearly should have been permitted having regard to the development plan, national planning policy and other material considerations.
3. The Council's decision notice sets out its reasons for refusing planning permission with reference to pertinent development plan policies. Also, its appeal submissions include a copy of the officer's report on the application as well as an appeal statement. These documents explain in an appropriate level of detail the reasons why the Council considered the development would fail to comply with development plan policies and the National Planning Policy Framework (the Framework). As such, it is incorrect to say the Council has failed to produce evidence to substantiate its objections.
4. The aforementioned officer's report includes comments at paragraphs 8.5 and 8.6 which clearly relate to another site and development and are inaccurate in respect of the current appeal scheme. In light of these irrelevant comments, it is understandable that the applicant would be confused over how the Council has reached its conclusion that the development would be beyond the built-up extent of the village. Nevertheless, the Council's appeal statement sets out a coherent case for refusing planning permission and is clearly based on accurate facts relevant to the proposal. As such, the evidence indicates that the Council would have refused planning permission even if paragraphs 8.5 and 8.6 had not been included in the officer's report. Therefore, an appeal would have been

required irrespective of the inaccurate elements of the officer's report and so any unreasonable behaviour in these regards has not resulted in unnecessary costs. Moreover, the applicant has had the opportunity to respond to the Council's appeal statement and so no prejudice or injustice has occurred.

5. The Council's case against the development is based on concerns that it would lie outside the built-up area and would lead to an unacceptable reliance on the private car. As explained in my appeal decision, I do not agree with the Council's concerns in these regards. However, these are generally matters of planning judgment. Consequently, I consider this is not a situation where clearly planning permission should have been granted having regard to the development plan and the Framework. The Council's opinion on the relevant issues are fair and clearly explained and so it is not unreasonable to have prevented the proposed development.
6. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore an award of costs is not justified.

Jonathan Edwards

INSPECTOR