



Costs Decision

Site visit made on 17 June 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 07 July 2022

Costs application in relation to Appeal Ref: APP/P1133/W/22/3292822 Rydon Farm, The Granary, Road to Rydon Farm, Trusham TQ13 0LZ

- 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 & Mrs T Duncan for a full award of costs against Teignbridge District Council.
 - The appeal was against a refusal of planning permission for construction of a manege / sand school for private equestrian use and adjoining storage building for secure storage of equipment.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. Procedurally, unreasonable behaviour can include a lack of co-operation with the other party or parties. Substantively, local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, which can include making vague or generalised assertions about a proposal's impact, or by failing to provide evidence to substantiate reasons for refusal. It can also include refusing permission on grounds capable of being dealt with by condition.
3. The appeal application was submitted to the Council following a refusal of planning permission¹ for a similar scheme. Whilst similar, the sand school under the revised scheme had been re-positioned 90 degrees from the original location, in order to help mitigate its visual impact. Given the topography of land in and around the appeal site, this re-siting made a meaningful difference to the scheme, materially altering its overall visual impact. Notwithstanding this key difference between the two schemes, the commentary in the Council's Officer Report repeatedly describes the revised scheme as "*identical*" to the original proposal, a point which is reiterated in the evidence submitted in connection with this appeal.
4. Having considered the revised scheme as "*identical*" to the earlier proposal, a further consultation response from the Council's Landscape Officer was not sought in connection with the appeal application. Given the reason for refusal of the revised scheme hinged solely on the impact of the development on the

¹ 20/01861/FUL

surrounding landscape, this was a significant oversight of the Council. Indeed, this approach led to analysis of the original proposal essentially being lifted and repeated in connection with the revised scheme. In turn, consideration of the revised scheme appears to have lacked proper analysis on its own merits, and was consequently overly vague and generalised.

5. Although the Council may well have reached the same conclusion even if an updated consultation response was sought from the Landscape Officer, it's also possible that any concerns relating to visual impact would have been overcome. In the latter scenario, the Council may have concluded that the proposed landscape scheme would have provided sufficient mitigation against any visual impact of the development, which could have been secured by condition. Had this been the case, the need for an appeal would have been avoided.
6. On account of these factors, I find that the Council's consideration of the application was flawed, contrary to the provisions of the PPG. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

7. In 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 Teignbridge District Council shall pay to Mr & Mrs T Duncan, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Teignbridge 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.

James Blackwell

INSPECTOR