
Costs Decision

Inquiry Held on 27 June – 6 July 2022

Site visit made on 4 July 2022

by H Butcher BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2022

Costs application in relation to Appeal Ref: APP/D3125/W/22/3293656 Land east of Barns Lane, Burford

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Greystoke for a partial award of costs against West Oxfordshire District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for up to 141 assisted extra care residential units (Class C2) and up to 32 affordable housing units (Class C3) along with associated communal facilities, parking, vehicular and pedestrian access, internal roads, public open space, landscaping, drainage and other associated infrastructure.
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Decision

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

Preliminary Matter

2. Written submissions from Greystoke for a partial award of costs were received during the course of the inquiry. After the inquiry had closed the Council responded to the application in writing and the appellant was given the opportunity to make any final submissions in writing.

Reasons

3. 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.
4. In this case the Council contended that they had a 5-year Housing Land Supply from the initial Case Management Conference until the round table session on Day 3 of the inquiry, at which point they conceded that they had no clear evidence to support their position. In particular, in respect of eight sites, all of which had outline permission and were for major development, the Council were unable to provide clear evidence that housing completions would begin on site within five years. Thus, they could not be considered deliverable as per the National Planning Policy Framework.
5. Whilst the Council did not have to accept the appellant's position on Housing Land Supply, they, nevertheless failed to produce clear evidence to

substantiate their contrary position. This is not a reasonable concession to make at such a late stage in appeal proceedings. The Council failed to review the case as part of sensible on-going case management to ensure relevant evidence was available in time for the inquiry, or alternatively review its position.

6. This amounts to unreasonable behaviour on the part of the Council. As a result of their actions the appellant's team will have spent time preparing for and attending the inquiry in respect of the Housing Land Supply matters in dispute thereby incurring unnecessary or wasted expense in the appeal process.

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 West Oxfordshire District Council shall pay to Greystoke the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in producing evidence in respect of Housing Land Supply, a main topic identified at the Case Management Conference as a matter in dispute, and Day 3 of the inquiry spent hearing evidence on Housing Land Supply; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to West Oxfordshire 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.

Hayley Butcher

INSPECTOR