



Costs Decision

Site visit made on 20 September 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Costs application in relation to Appeal Ref: APP/Y3940/W/22/3296581 Church House, Church Lane, Kington Langley, Chippenham SN15 5NR

- 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 M. Allenby-Smith for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for formation of a new residential access; close up existing vehicular access (retaining pedestrian access).
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. As explained fully in the associated appeal decision, I found that the proposed development would preserve the character and appearance of the Kington Langley Conservation Area (conservation area). Nevertheless, whilst the appeal was allowed, it is clear from the Council's Officer's Report that the Council undertook a thorough and rational assessment of the proposal at application stage.
4. In particular, the Officer's Report contains an appropriately-detailed account of the significance of the conservation area and a cogently-argued assessment of the effect of the proposal on its character and appearance, including the consequences of stopping up the existing vehicular access. Additionally, the Council highlighted what they considered to be the public benefits arising from the proposal (including the provision of a new access point for Church House and the adjacent paddock), and, having regard to the relevant provisions of the National Planning Policy Framework, took a reasonable approach in weighing these public benefits against the harm which the Council identified.
5. Therefore, whilst the appeal was allowed, I consider that the Council's findings were within the range of reasonable possibilities open to them and that the Council did not prevent or delay development which should clearly have been permitted, or make vague, generalised or inaccurate assertions, which were unsupported by any objective analysis. Considering this, and bearing in mind that awards of costs do not inevitably follow in the event than an appeal is allowed, I do not consider that the Council acted unreasonably with respect to the substantive ground raised by the applicant.

6. I note that the Council's decision notice was issued 6 months after the planning application was submitted, and that no evidence of negotiations during this period has been supplied. In this regard, the PPG advises that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation¹.
7. However, considering my findings above in relation to the substantive aspect of this costs application, it is unlikely that better communication with the applicant would have enabled the appeal to have been avoided altogether, which the PPG advises is a consideration to be taken into account with respect to whether a local planning authority's handling of the planning application prior to the appeal might lead to an award of costs².
8. Hence, as an appeal would have been likely in any event, even if I were to find that the Council's actions constituted unreasonable behaviour with respect to the procedural ground raised by the applicant, on a balance of probabilities I consider that no unnecessary or wasted expense in the appeal process has occurred on that ground.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Accordingly, I determine that the costs application should fail, and no award is made.

Alexander O'Doherty

INSPECTOR

¹ Paragraph 16-048-20140306

² Paragraph 16-048-20140306