



## Costs Decision

Site visits made on 12 & 13 June 2023

**by R Hitchcock BSc(Hons) DipCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 06 July 2023**

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### **Costs application in relation to Appeal Ref: APP/J3720/W/22/3311967 King Edward VI School Sports Field and Pavilion, Manor Road, Stratford-upon-Avon, Warwickshire CV37 7EA**

- 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 King Edward VI School and Appletree Developments Ltd for a full award of costs against Stratford-on-Avon District Council.
  - The appeal was against the refusal of planning permission for the erection of 6No. detached dwellings; two vehicular access points.
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### **Decision**

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

### **Reasons**

2. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Local planning authorities are at risk of an award of costs against them where there is evidence of preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. The applicant's concerns primarily relate to the Council's alleged failure to take into account the findings in an earlier appeal, Ref. APP/J3720/W/21/3271155, for a similar development on the site.
4. In this case the Council's officer had recommended the application for approval. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council must clearly demonstrate why a proposal is unacceptable on planning grounds and provide clear evidence to substantiate that reasoning.
5. There is some dispute between the main parties as to whether there is a material difference between the proposed development and the previous appeal scheme. Although the applicant has provided some measurements as to the differences between the 2 proposals, neither party provided detail of the previous scheme such that any assessment of whether or not it was materially different could be undertaken.

6. Therefore, I cannot be certain that the different proposals could be considered on a like-for-like basis. Accordingly, the weight to be ascribed to the previous Inspector's view on the matters of character and appearance is not entirely clear. I am therefore unable to conclude that the Council's approach was unreasonable with any certainty.
7. In contrast, with regard to parking provision, there is sufficient evidence to suggest that the ratio of parking to accommodation was identical in both cases. This position was not contested by the Council. In relation to that matter, the Inspector determining the earlier case concluded that there was limited evidence that adverse effects would arise from the proposed on-site parking provision.
8. Notwithstanding that finding, the Council have limited their objection to an alleged policy conflict. Whilst I acknowledge the Council's stance that the guidance provides a basis for consistent decision-making, this is subject to consideration of all material matters. In the face of the earlier determined appeal, if a different view was to be taken, it was incumbent on the Council to explain that and provide evidence to support its position.
9. Although the Council did not consider the justification sufficient to reduce parking provision measured against the guidance, there is little to demonstrate what harm might arise from reduced on-site parking provision. There was little assessment of local parking capacities, parking pressure, or clarification of where adverse effects on highway safety or residential amenity might be felt.
10. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in relation to the parking effects of the proposed scheme. The Council failed to produce evidence to substantiate that reason for refusal resulting in vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis. For this reason, and having regard to all other matters raised, a partial award for costs in defending that aspect of the development in the appeal is therefore justified.

### **Costs Order**

11. 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 Stratford-on-Avon District Council shall pay to King Edward VI School and Appletree Developments Ltd the costs of the appeal proceedings in relation to the matter of the second reason for refusal as set out in the Council's Decision Notice, dated 3 November 2022.
12. The applicant is now invited to submit to the 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.

*R Hitchcock*

INSPECTOR