



Costs Decision

Site visit made on 29 August 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2023

**Costs application in relation to Appeal Ref: APP/C3105/W/23/3315481
Land North East of Fringford Study Centre, Rectory Lane, Fringford
OX27 8DP**

- 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 A Bradbury for a full award of costs against Cherwell District Council.
- The appeal was against the refusal of planning permission for the construction of a four-bedroom detached dwelling with garage and access.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. The guidance identifies various possible unreasonable behaviours by a local planning authority. These include failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised, or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; not determining similar cases in a consistent manner and persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable¹. The guidance encourages authorities, amongst other things, to properly exercise their development management responsibilities, and to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case².
4. An earlier planning application relating to the appeal site was considered by the Council under reference 20/01891/F. The Council refused planning permission on the grounds of insufficient information in relation to archaeology and the harmful effect of the proposal on the character and appearance of the area. Although the subsequent appeal³ was dismissed on archaeological grounds, in determining the appeal the Inspector found that the proposal would not harm the verdant character and appearance of the area.

¹ Paragraph: 049 Reference ID: 16-049-20140306

² Paragraph: 028 Reference ID: 16-028-20140306

³ APP/C3105/W/21/3270400

5. A further planning application was submitted in 2022, this being the subject of the current appeal. The evidence before me indicates that this did not propose anything different to the form of development proposed in the earlier planning application. It was however accompanied by an archaeological evaluation. Permission was later refused by Council Members contrary to the professional advice of the Officers. The sole reason for refusal indicates that the proposed development would harm the verdant character and appearance of the area. The cost application essentially relies on the fact that the Council persisted in objections to a scheme on grounds which an Inspector had previously indicated to be acceptable and in doing so, prevented development which should have been permitted.
6. Council Members have the discretion to reject a recommendation put to them by professional officers, and not agreeing with an officer's recommendation is not alone justification for an award of costs. However, the reasoning for a subsequent refusal of planning permission needs to stand up to scrutiny and be supported by robust objective evidence.
7. The Council is under no obligation to provide a statement of case. However, no credible evidence has been provided to satisfactorily explain the rejection of the conclusion set out within the officer's report. Indeed, in my accompanying decision, I explain why I find no basis to the objection on the grounds of character and appearance which is generally consistent with the considerations set out within the officer's report. Under these circumstances, I am unable to conclude that there was a reasonable basis for the Council to justify a refusal of the planning application on the grounds of character and appearance.
8. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has been demonstrated. A full award of costs, to cover the expense incurred by the applicant in contesting the Council's reason for refusal, is therefore justified.

Costs Order

9. 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 Cherwell District Council shall pay to Mr A Bradbury, the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to Cherwell 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

H Wilkinson

INSPECTOR