



Costs Decision

Hearing held on 20 June 2023

Site visit made on 21 June 2023

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2023

Costs application in relation to Appeal Ref: APP/Y3940/W/23/3317362 Land West of Hillworth Road / John Rennie Close, Devizes, Wiltshire SN10 5HD

- 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 Philip Attwood, Square Bay (Property) Ltd for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for an outline planning application for residential development of up to 59 dwellings together with access and associated works (mix of units to be determined by Reserved Matters) - All matters reserved except access.
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Decision

1. The application for an award of costs is refused.

Preliminary Matter

2. The application for costs and the response by the Council, as well as the final comments by the applicant, were all submitted in writing following close of the hearing.

Reasons

3. 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.
4. The applicant, seeking a full award of costs, principally relies on the Council having prevented or delayed development that should clearly have been permitted. This follows a positive recommendation to approve the planning application by officers to the Council's Planning Committee, but which the committee then decided to refuse. It is contended that the reasons for refusal do not withstand scrutiny. The applicant also asserts that the Council's evidence conflates heritage matters with landscape and visual concerns.
5. I note that the committee departed from the officer's recommendation, and it is clear from the evidence submitted that there was concern in respect of the effect of the proposal on the character and appearance of the area, due principally to the extension of development into the countryside, outside of the settlement boundary and beyond the part of the site that was allocated for residential development. In my view, that is a view that the Members on the committee were entitled to reach. They are not bound to accept the

recommendation of the officer, provided they can show good reason for departing from it. The evidence submitted and discussed at the hearing, adequately establishes the basis on which the scheme is resisted.

6. There is also mention of the Landscape evidence seeking to introduce a heritage reason for refusal, in respect of the effect on the historic parkland. The reason for refusal is clear that harm to a historic landscape is alleged. The statement of common ground sets out that no harm is claimed in respect of any designated heritage asset. I further clarified with the Council's Landscape consultant at the hearing that the harm relied on was in respect of the relationship of the site to an area of historic parkland and the contribution that it makes to the wider landscape. It was categorically stated that the Council was not relying on harm to any designated or non-designated heritage asset, and this is once again confirmed within the Council's response to the application for costs. I therefore consider that the Council have not been unreasonable in this respect.
7. The applicant contends that the evidence put before me exhibits "mission creep," with it being the case of the Council's landscape consultant, not the Council's. However, as I set out above, the reason for refusal did refer to the historic landscape. The consultant was entitled to refer to, rely on and expand upon this matter, when stating their case. The consultant expressed their professional view, based on the reason for refusal as set out by the Council, expanding on matters that they considered to be relevant. The discussion at the hearing, together with the agreed Statement of Common ground, establishes the scope of the matters with which the Council, through its consultant, take issue. Following departing from an officer's recommendation to a committee, there is bound to be some amplification of the stated reasons, and this has what occurred in this case. This does not in my view rise to the level of unreasonable behaviour.

Conclusion

8. The Council identified harm resulting from the development. I have agreed with this to some extent. I do not therefore consider that the Council, or its consultant have been irrational in their approach.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Martin Allen

INSPECTOR