



Costs Decision

Site visit made on 17 October 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th November 2023

Costs application in relation to Appeal Ref: APP/Y3940/W/23/3315794 Land off Waiblingen Way, Devizes SN10 2BW

- 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 Wiltshire Council for a full award of costs against Mr Khan.
- The appeal was against the grant subject to conditions of planning permission for the construction of one detached dwelling and associated infrastructure.

Decision

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

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 Council contends that the appellant has behaved unreasonably because the changes made during the application process were mutually agreed, and the submission of the appeal is unreasonable behaviour because the determination of the application did not require an assessment of the appeal scheme. As such, unnecessary and wasted expense has resulted because the Council had to undertake a fresh assessment of the scheme.
4. There is a right of appeal where planning permission was granted subject to conditions to which the appellant objects. The appellant is within their rights to take up this option. The approved plans condition is not excluded from this right.
5. The appeal process does afford the applicant the opportunity to make its case on the merits of the appeal scheme, and it has done so during the appeal. The appeal scheme itself still falls within the ambit of the original development proposal that was applied for and consulted upon. The applicant has not been prejudiced in this regard. Accordingly, this does not amount to unreasonable behaviour.
6. For the reasons given, I find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated and that, therefore, an award of costs is not justified.

J White

INSPECTOR