



Costs Decision

Site visit made on 24 October 2023

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2023

Costs application in relation to Appeal Ref: APP/H1840/W/23/3321573 Land Off Church Lane, Norton, Worcester

- 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 David Pullen for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of the Council to grant permission in principle for up to 4 dwellings.
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Decision

1. The application for an award of costs is allowed in full, 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 PPG¹ makes clear that local planning authorities are at risk of an award of costs if they behave unreasonably with respect of the substance of the matter under appeal. This includes delaying development which should clearly be permitted, having regard to its accordance with the Development Plan, national policy and any other material considerations. It also includes vague, generalised or inaccurate assertions about a proposal's impact, and failure to produce evidence to substantiate each reason for refusal on appeal.
4. The reason for refusal of the application was based on the effect of noise on the future living conditions of occupiers of the proposal. However, as I have found in my main decision, this is a matter for Technical Details Consent, rather than at permission in principle stage.
5. As such, in refusing permission only on the grounds of a matter not relevant at this stage, the Council has delayed development which should clearly be permitted at permission in principle stage. Furthermore, it has provided little evidence to substantiate this reason for refusal, in particular the minutes of the Planning Committee meeting on 2 March 2023, where only a vague concern was raised about noise, amongst other things. Nor has the Council sought to defend its position with regard to this application for costs.

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

6. Consequently, I conclude that the Council has acted unreasonably in refusing permission on these grounds. As a result of this behaviour, the applicant has incurred additional and wasted expense in having to make the appeal.

Conclusion

7. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has been demonstrated. Therefore, a full award of costs is justified.

Costs Order

8. 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 Wychavon District Council shall pay to Mr David Pullen the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Wychavon 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.

O Marigold

INSPECTOR