



Costs Decision

Site visit made on 27 March 2024

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2024

Costs application in relation to Appeal Ref: APP/W0340/W/23/3327949 Youngs Industrial Estate, Paices Hill, Aldermaston, Reading RG7 4PW

- The application is made under sections 78, 322 and Schedule 6 of the Town and Country Planning Act 1990, and section 250(5) of the Local Government Act 1972.
- The application is made by Young Estates and Land Ltd for a full award of costs against West Berkshire District Council.
- The appeal was against the refusal of planning permission for the construction of 8 light industrial units and 1 light industrial unit with office accommodation in a single building, including parking and access roads.

Decision

1. The application for an award of costs is allowed, in part, 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. In this instance the applicant's case was based on 3 aspects, each of which I shall examine in turn.

Core Strategy Policy ADPP1

4. In my decision, I have found the approach taken in relation to Core Strategy Policy ADPP1 in the appeal process was not unreasonable. Although this policy states that the majority of development will take place on previously-developed land, it also goes on to say that a significant intensification of employment generating uses will be avoided within areas that lack sufficient supporting infrastructure, facilities or services, or where opportunities to access them by public transport, cycling and walking are limited. It adds as well that only appropriate limited development to support the rural economy will be allowed in the open countryside. To my mind it is a matter of planning judgement as to whether or not the proposal complies with these aspects of the policy.
5. I am aware planning permission has been granted relatively recently for the Screwfix building immediately to the north of the appeal site, and for development on the Blacks Lake Track to the south of Young's Industrial Estate. I am mindful too that the PPG says Councils are at risk of an award of costs if they do not determine similar cases in a consistent manner. However, such a scenario is only identified as having a '*risk*' of an award. As I consider the Council's interpretation and application of this policy was not unreasonable

in this instance, then, while acknowledging that guidance in the PPG, the Council's approach has not constituted unreasonable behaviour.

Lack of engagement

6. The Council stated that unless there is public benefit in securing revisions then refusal is recommended without further negotiation. From the submissions before me it is clear that even if negotiation had meant some matters could have been resolved others would have remained, and so the appeal would still have gone ahead.
7. However, the Council has given insufficient information to show why the drainage details and construction standards were not planning grounds capable of being dealt with by conditions, to be resolved by the submission of additional information before the development commenced. Consequently, those reasons for refusal were unnecessary. Therefore, in relation to those matters the unreasonable actions of the Council have meant the applicant has incurred unnecessary expense by having to address them in the appeal process.
8. Whilst there were other issues that I also found could be resolved by condition, I acknowledge that in relation to those the submissions show there is more of a judgement as to whether that would be appropriate. As such, it was not unreasonable for the Council to persist in them being reasons for refusal.

Ignoring comments from the Economic Development Team (EDT)

9. The support of the EDT was stated within the Officer Report and so it is reasonable to assume it formed part of the decision-making process. As a consultee it is understandable that the EDT expressed support for the scheme, as its role is, no doubt, to encourage economic development in the District. However, the Council as local planning authority has a different role. Its task is to weigh representations from consultees and other third parties, along with all other relevant material considerations, and come to a balanced planning judgement as to whether or not the proposal should be permitted. Therefore, while the Council did not determine the case in the manner recommended by the EDT, it does not follow that those comments were ignored. In this regard, I find it has not been shown the Council behaved unreasonably.

Conclusions

10. I conclude that unreasonable behaviour resulting in unnecessary expense has occurred in respect of the Council's failure to demonstrate why Reason for Refusal 5 and Reason for Refusal 7 did not constitute planning grounds capable of being dealt with by condition, and a partial award of costs is therefore warranted in relation to those matters only.

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 West Berkshire District Council shall pay to Young Estates and Land Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the applicant addressing Reason for Refusal 5 and Reason for Refusal 7; such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to West Berkshire 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.

JP Sargent

INSPECTOR