



Costs Decision

Site visit made on 9 May 2024

by Lewis Conde BSc, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Costs application in relation to Appeal Ref: APP/J1860/W/23/3333698 Land At (OS 7558 5996), Martley, Worcestershire WR6 6QA

- 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 Richard Banks for a full award of costs against Malvern Hills District Council.
- The appeal was against the refusal of planning permission for the erection of detached three bedroom dwelling.

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 application essentially relies on the fact that the Council failed to co-operate in allowing an extension of time on the original application in order that matters relating to highway safety could be further considered. Additionally, that the Council's reason for refusal in relation to highway safety (and subsequent arguments defending its approach during the appeal) have not been based upon input from a qualified highway engineer. Consequently, this has necessitated the production of a further technical note from the appellant's transport consultant.
4. From the information before me, it appears that the appellant would have likely been aware of existing highway safety concerns associated with the access to the site, given the appeal site's previous planning history and fairly recent pre-application advice that had been issued by Worcestershire County Council ('WCC', as the Highway Authority). That advice of WCC highlighted that the site's access was likely served by inadequate visibility to the east and therefore an application was unlikely to be supported. However, the advice acknowledged that there may be justification for a reduced level of visibility, notably through consideration of actual vehicle speeds verified by a speed survey.
5. Despite the previous pre-application advice from WCC, no technical highways information was initially submitted alongside the planning application. However, the applicant sought to agree an extension of time with the Council to allow consideration of new transport evidence (including details of the extent of highway land and results of a speed survey). Although providing earlier notice, the final transport evidence was provided to the Council only a few

working days prior to the deadline for determination of the planning application.

6. Whilst it may be good practice, the Council is under no obligation to grant a request for an extension of time to determine a planning application to allow additional information to be considered by third parties. While in this case, the new information would not have overcome the Council's other reason for refusal in relation to heritage matters. As such, an appeal would not have been avoided.
7. The Council has indicated that although WCC did not comment on the applicant's transport evidence, it has been reviewed by an engineer within the Council. It is unclear whether this was an engineer with a highways background/experience. Nevertheless, I am satisfied that the Council was able to substantiate its reasons for refusal with reference to local plan policies. This includes in relation to the impact of the proposal on highway safety, which although of a technical nature remain a matter of judgement. As will be seen from my appeal decision, whilst I do not share all of the Council's concerns with the proposed access arrangement, it remains that I have still found the proposal to result in harm to highway safety.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Lewis Condé

INSPECTOR