



Costs Decision

Site visit made on 30 July 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Costs application in relation to Appeal Ref: APP/Y3940/W/24/3339090 Land at Washpool, Swindon, Wiltshire, SN5 3PN

- 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 E.P. Keogh Contractors Limited for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for development described as "demolition of various outbuildings and erection of a 3-bedroom detached dwelling and associated works."
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Decision

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

Reasons

1. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The application for costs asserts that the Council behaved unreasonably by preventing or delaying development which should clearly be permitted.
2. Paragraph 48 of the PPG says that if it is clear that the local planning authority will fail to determine the application within the time limits it should give the applicant a proper explanation. It says that if there were no substantive reasons to justify delaying the determination, and if better communication with the applicant would have enabled the appeal to be avoided altogether, the local planning authority may be at risk of costs. Any unreasonable behaviour on the part of the appellant in causing or adding to the delay should be taken into account.
3. The Council has provided a response to the appellants assertions regarding delays in determining the application. The Council details that proactive discussion was undertaken during the course of the application, with amended information, drawings and reports requested and submitted during the course of the application. I acknowledge that the application was with the Council for some length of time, however this appear to have been to seek additional information and amendments to work towards a solution. I do not therefore find that the Council behaved unreasonably in this respect.
4. Whilst I appreciate the outcome of the application will have been a disappointment to the applicants, the Council were reasonable in coming to that decision from the information they had available to them. The proposed

development would not meet the exceptions for residential development within the open countryside and would be located in an unsustainable location, as such, their first and second reasons for refusal is correct. Additionally, the proposed development would be located in flood zone 2 and 3a and I have found that the sequential test is lacking detail. Whilst it is evident from the main decision that I have disagreed with the Council's reasons for refusal relating to character and appearance and highway safety, the Committee Minutes set out an assessment of the indicated harm and how this would conflict with relevant adopted planning policies. Weight is a matter for the decision maker in each case.

5. Accordingly, I do not find that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposal which justified its decision.

Conclusion

6. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Tamsin Law

INSPECTOR