



Costs Decision

Site visit made on 23 May 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Costs application in relation to Appeal Ref: APP/H1840/W/23/3336003 Land off Broadway Road, Childswickham, Worcestershire WR12 7HD

- 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 Stephen Wreford, Appletree Ventures Limited for a partial award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission for construction of 9 new dwellings with garages, new access & associated landscaping.
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Decision

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

Reasons

2. Planning Practice Guidance ('PPG') advises that, irrespective of the outcome of the appeal, costs may only 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 applicant's application for costs is based on the alleged unreasonable behaviour of the local planning authority ('LPA') and wasted expense, for the reasons considered below.
4. The LPAs reason for refusal 4 ('RfR4') alleges that in the absence of sufficient information, the proposal fails to demonstrate that adequate visibility from the site's access can be achieved in both directions along Broadway Road.
5. The Highway Authority's original consultation response dated 7 August 2023 says: "whilst visibility splays of 2.4 m by 43 m are shown for each access, in both directions, the Highway Authority would require the applicant to arrange a speed survey be undertaken, in order to establish the 85th percentile speeds in both directions, in order to confirm the appropriate visibility splays."
6. Subsequently, a Transport Statement was submitted and the Highway Authority was re-consulted. However, in the absence of any further response from the Highway Authority, and based on its original consultation response, the LPA proceeded to refuse the planning application, which also included RfR4.
7. However, the Transport Statement confirms that visibility splays derived from the recorded 85th percentile vehicle speeds, equate to 104.3m northbound and 90.1m southbound at a setback of 2.4m. Furthermore, the applicant's submissions confirm that these visibility splays in relation to the site's proposed access along Broadway Road are achievable in both directions.

8. Because RfR4 was based on the consultation response from the Highway Authority, this is not vague. Nonetheless, because of the Transport Statement and information available to the LPA at the time, this is certainly inaccurate. At the very least the LPA should have considered RfR4, in light of the Transport Statement and sought clarification from the Highway Authority.
9. Nonetheless, the PPG advises that “an application for costs will need to clearly demonstrate how an alleged unreasonable behaviour has resulted in unnecessary or wasted expense.”
10. In this case, the applicant’s appeal statement, under paragraph 8.35, other than making reference to the submitted Transport Statement introduces no further evidence in respect of RfR4. Therefore, I fail to see what wasted or unnecessary expense can be attributed to RfR4.
11. Given all of the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a partial award of costs is not justified.

M Aqbal
INSPECTOR