



Costs Decision

Site visit made on 25 September 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Costs application in relation to Appeal Ref: APP/W0340/W/24/3344745 Greengates, Front Street, East Garston, Hungerford RG17 7HW

- 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 Whittonditch Farm Barns Development Ltd for a full award of costs against West Berkshire Council.
 - The appeal was against the refusal of planning permission for the demolition of existing structurally compromised cottage and provision of a replacement cottage, with provision for access and related landscaping.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, 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 Guidance advises that awards may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal.
4. The application for a full award of costs has been made by the appellant in writing and will not be repeated here in any detail. The appellant has referred to the application being determined contrary to officer and consultee recommendations, and that the Council's committee did not understand nor take into account pertinent and extant development plan policy, as evident through the approval of a similar proposal. The reasons for refusal were not based upon available evidence, and conditions would have been agreeable to the appellant. There were also unreasonable delays in the Council's consideration of the planning application, and consultants had to be instructed for the appeal.
5. My decision explains that I have found substantive reasons for dismissing the appeal. When refusing an application the Council is obliged by the Guidance to make the reasons for refusal clear. In this case the Council provided clear and precise reasons that were explained and substantiated at the appeal stage.

Neither the Council's reasons for refusal nor the appeal evidence was vague or generalised.

6. The Council is not bound to accept the recommendations of its officers, but if their technical and professional advice is not followed then reasonable grounds for taking a contrary decision need to be supported by relevant evidence. It was not unreasonable of the Council to determine the application on the basis of the evidence before it, and this would have included having regard to opinions from local residents. The harm considered to arise from the scheme has been substantiated and explained within the reasons for refusal. The specific harm to the conservation area has been identified, and matters of public benefit have been assessed. The impact of the scheme upon the living conditions of nearby residents was also precise with regard to the harm. Each reason cited relevant development plan and national planning policies, with explanations provided as to why the scheme conflicted with their objectives. The reasons for refusal were clear, precise, and substantiated, as required by the Guidance.
7. Given the concerns of the Council the substantial harms from the scheme would not be overcome by the suggested conditions. Whilst a subsequent planning application for a replacement dwelling has been approved, it is very different to the appeal scheme. The permitted house would have a different form and internal layout. Given these fundamental differences, it is not the case that the Council have determined similar cases inconsistently.
8. Several of the procedural concerns of the appellant derive from the Council's consideration of the original application, including the significant delays that occurred before determination. The application generated local community interest and referring the application to the Council's committee would have delayed a decision. Such delays would have been frustrating for the appellant, but the decision to revise drawings and to wait for a decision from the Council would have been one for the appellant to make, as would the decision to submit an appeal and instruct consultants.
9. Reference has also been made by the appellant to the conduct of the Councillors at the committee. The Guidance makes it clear that although the behaviour and actions of the Council during the determination of the planning application can be taken into account, costs cannot be claimed for this period, but only in relation to the appeal. Whilst such matters would be of concern, I am obliged to consider this application as required by the advice in the Guidance.
10. The consideration of planning applications and appeals involves matters of judgement that are at times finely balanced. In this case the scheme raises several considerations requiring such a balance, and the Council gave a different weight to the issues than the appellant. This was not unreasonable of the Council, and the decision to submit the appeal would have been one for the appellant to make.
11. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense as described in the Guidance has not been demonstrated and an award of costs is not justified.

J J Evans INSPECTOR