



Costs Decision

Site visit made on 15 October 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2024

Costs application in relation to Appeal Ref: APP/T3725/W/24/3342372 Highfields, The Stables, Mill Lane, Cubbington, Warwickshire CV32 7UD

- 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 Ms. Halina Tombs for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of planning permission for the change of use of existing building (currently comprising physiotherapist office, consulting, waiting and treatment rooms) to a bungalow (class C3 dwelling).
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Decision

1. The application for an award of costs is allowed 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. The applicant submits that the Council were aware of their housing land supply shortfall prior to their determination of the planning application, that their reasoning was vague and the decision inconsistent. In all the applicant considers this led to development being delayed that should have otherwise been permitted.
4. As part of their submissions the applicant has provided a copy of the inquiry decision covering Warwickshire Police Headquarters¹. It is clear from this decision that the main parties discussed the Council's housing land supply and that the disagreement over housing numbers stemmed from whether the identified sites were deliverable and whether a 'discount' should be applied to cover Coventry's needs. I do not have all the of information from that appeal, however, it appears from that decision that the Council did not fully concede their position on either deliverability or 'discount'. In part this is clear as it would have been unnecessary for the Inspector to consider the various sites and discount in such detail had the Council stated they could not demonstrate a five-year housing land supply.
5. In light of the information before me, the Council were not certain of their lack of a housing land supply until the Police Headquarters decision was received. I therefore find that the Council were not unreasonable either in their inclusion of the associated reason for refusal or in their withdrawing it following the submission of the appeal.

¹ Planning Inspectorate Reference: APP/T3725/W/23/3319752

6. Through their submissions for both the planning application and appeal, the Council were clear that a condition tying the stable to the proposed dwelling would mitigate the raised living conditions concerns. However, the Council considered that such a condition would not be appropriate. Whilst I understand that this stems from the size of the stable and its size in relation to the proposed dwelling, it is not clear why this issue makes such a condition unworkable. In particular, the Council have not identified any conflict or made reference to any local or national policies. I therefore find that the Council have not suitably substantiated their objection to the use of the condition.
7. Whilst other planning and appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts and evidence before those decision-makers or Inspectors at the time. Although permission W/22/1788 bares some comparison to the case before me, the retained stable was to be reduced in scale as part of the development. I note that the Council state that this reduction is the reason why the tie condition was deemed suitable in that case. Nevertheless, from the limited information before me I cannot be certain why the Council found it necessary for that stable to be reduced in scale. Therefore, I cannot make any meaningful comparisons to this example and I do not find that it demonstrates inconsistency in decision-making.
8. While the length of time it took for the Council to determine the application was unhelpful, I note that the applicant agreed for an extension of time. I therefore consider the applicant accepted the length of time it was taking and that the Council were not unreasonable in this sense.
9. Of the matters raised above, I consider that the Council only acted unreasonably with regard to their objections of the tie condition. By not suitably justifying and supporting their objections to the use of such a condition the Council the Council would have sown doubt in the applicant as to the reliability of the decision. I am mindful that an appeal would have been necessary given the Council's then position regarding their five-year housing land supply. However, the applicant's work against the second reason for refusal was unnecessary and as such the costs were also unnecessary or wasted.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Council's objection to the use of a tie condition and a partial award of costs is therefore warranted.

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 Warwick District Council shall pay to Ms Halina Tombs, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the tie condition; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Warwick 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.

Samuel Watson

INSPECTOR