



Costs Decision

Site visit made on 4 February 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2025

Costs application in relation to Appeal Ref: APP/J1860/W/24/3352522

Land at Howsell Road, Malvern WR14 1TH

- 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 Charles Owen on behalf of Primary Industrial Properties Malvern Ltd for a full award of costs against Malvern Hills District Council.
 - The appeal was against the refusal of planning permission for change of use of land from redundant railway sidings to open storage, existing building used for office/storage to be retained and repaired.
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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. In summary, the applicant claims that the Council has acted unreasonably by refusing an application that the Council Officer's recommended for approval and that all of the issues raised in the reasons for refusal were fully and clearly addressed in the Officer Report. In that regard the applicant's claim is based on the Council preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations.
4. Members of the Planning Committee are not duty bound to follow the advice of officers. Moreover, the minutes do not have to fully substantiate each reason for refusal or provide objective analysis or evidence of the effects of the proposal. From the evidence before me, including the Council's Costs Rebuttal, I have no substantive evidence that the members did not take account of the Officer Report and consultee responses but resolved to refuse the application based on a different planning balance.
5. The Council's statement of case sets out the reasons why the development was not acceptable and reached a conclusion that the change of use would be contrary to the allocation of the site as a car park and would adversely affect the character of the area, including the Malvern Link and Trinity Conservation Areas and the Malvern Hills National Landscape. The Council has clearly set out the justification for the reason for refusal and related the concerns to relevant development plan policies.

6. For these reasons, although I have reached a different conclusion on the allocation of the site in policy and the effect of the proposal, I have found that the Council had reasonable concerns about the proposed development which justified its decision. The applicant had to address those concerns in any event and therefore the appeal could not have been avoided.
7. I therefore have no substantive evidence that the Council has acted unreasonably in the appeal. As such, there can be no question that the applicant has incurred unnecessary or wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

K Townsend

INSPECTOR