



Costs Decision

Site visit made on 11 March 2025

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 March 2025

Costs application in relation to Appeal Ref: APP/Y3940/W/24/3348374

Land South of Ballingers, Urchfont, Wiltshire, SN10 4RL

- 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 Urchfont LVA LLP for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for outline application with all matters reserved bar access for the development of up to 21 dwellings, including affordable housing, 4 self-build plots and associated infrastructure.
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Decision

1. 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. The PPG advises that Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. This can include preventing or delaying development which should clearly be permitted, having regard to planning policy and any other material considerations. It can also include a failure to produce evidence to substantiate the reason for refusal; vague, generalised or inaccurate assertions about a proposal's impact, and not reviewing their case promptly following the lodging of an appeal.
4. Although disputed by the applicant, at the time that the appeal application was determined, the Council considered that it was able to demonstrate an adequate supply of housing land. The Council's Landscape officer did not object to the proposal and agreed with the appellant's Landscape and Visual Appraisal. However, character, appearance and landscape impact are essentially matters of professional judgement, and the Council was entitled to reach the conclusion that it did regarding more localised impacts.
5. The Storridge Road, Westbury decision¹ found that the Council could not demonstrate an adequate supply of housing land. As a result, the Council reviewed its case, and accepted that the 'tilted balance' of the National Planning Policy Framework paragraph 11 applied. Nevertheless, it maintained that the harm and Development Plan conflict significantly and demonstrably outweighed the benefits of the proposal.

¹ APP/Y3940/W/24/3340811

6. In my decision, I have found that the proposal would result in harm to the character and appearance of the area, and conflict with the Development Plan, albeit that these would be outweighed by the benefits of the proposal. However, in weighing the harms and benefits of the development differently, I consider that the position of the Council was plausible.
7. The Council's Statement of Case included two photographs, one said to be from a corner of the site. In fact, it was taken from the corner of an adjacent field. Nevertheless, it does show the wider surroundings of the site, and the Council did not rely on this photograph. Instead, its case was based primarily on the more detailed findings of the Officer Report. These were sufficient to make its case respectable.
8. A Council Planning Officer is said to have been supportive of the proposal during the application stage, although this appears to have been an opinion given when circumstances were different. The planning application was not heard until the Committee meeting in February 2024, whereas the applicant believes it could have been heard much earlier. However, from the information available to me, and against a changing housing land supply position, I am not convinced that the Council's actions were unreasonable or led to unnecessary expense at appeal.
9. For these reasons, the Council has not delayed development which should clearly have been permitted and it has substantiated its concerns regarding the character and appearance of the area. Consequently, I consider that the Council has not behaved unreasonably or caused the applicant to incur unnecessary or wasted expense in the appeal process.

Conclusion

10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred, and an award of costs is not therefore warranted.

O Marigold

INSPECTOR