



Costs Decision

Site visit made on 25 March 2025

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Costs application in relation to Appeal Ref: APP/Y3940/W/24/3350853 High View and Bonakers Farm, Idmiston Road, Porton, Salisbury, Wiltshire SP4 0LD

- 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 James Armstrong for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for the demolition of existing dwelling and annexe and construction of 4 dwellings.
-

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 PPG sets out that unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive.
4. The appeal proposal was a resubmission of a previously refused scheme¹. This previous scheme was refused for two reasons, relating to the retention of the agricultural workers dwelling on the site and effect on the River Avon Special Area of Conservation (SAC). The resubmitted scheme was refused for two completely separate reasons.
5. This inconsistency is unreasonable, as the appellant should have confidence that the issues raised by the Council can be addressed.
6. Moreover, the two refusal reasons, relating to highways impact and local housing need, were imposed contrary to advice from the planning officer regarding housing need and the technical advice of the Highways Officer. It is not unreasonable for Members to come to a differing conclusion from advice given, however it must be evidenced and substantiated.
7. On both issues, the Council's case is vague and limited. Unsubstantiated and unqualified references to local knowledge of the housing market does not sufficiently justify the reason for refusal. Whilst there may be an element of judgement in the assessment of the broader issues of highways impact, where

¹ Application reference PL/2023/03232

local knowledge can be useful, I find that the case put forward by the Council at appeal to be lacking in detail and compelling evidence. This is especially given the location of the development within the settlement boundary where the principle of new residential development is accepted, and it is noteworthy that this reason for refusal was subsequently withdrawn.

8. The Council also does not dispute the appellants assertion that a Member with a declared interest voted on the determination of the application.
9. Notwithstanding my conclusions on the appeal, this represents unreasonable behaviour both procedurally and substantively has been demonstrated as described in the PPG.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full 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 Wiltshire Council shall pay to Mr James Armstrong the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Wiltshire 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.

B Phillips

INSPECTOR