
Costs Decision

Hearing held on 15 April 2025

Site visits made on 14 April and 30 April 2025

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 May 2025.

Costs application in relation to Appeal Ref: APP/D3125/W/24/3351969

Land north of Woodstock Road, Charlbury

- 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 Bob Mackenzie for a partial award of costs against West Oxfordshire District Council.
 - The appeal was against the refusal of planning permission for residential development comprising of 28 dwellings (inc. 50% affordable housing), the provision of public open space and landscaping, demolition of existing garages and provision of new garaging, a vehicular access via Woodstock Road and pedestrian access to Hughes Close together with associated works.
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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. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes failure to produce evidence to substantiate each reason for refusal on appeal.
4. In this regard the appellant produced landscape evidence including a Landscape and Visual Impact Assessment (LVIA) in support of the planning application. The LVIA concluded that visually the proposed development would result in “moderate adverse effects” reducing to “minor adverse” on account of the proposed boundary vegetation strategy.
5. In response whilst the Cotswold Conservation Board took the view that the proposal would result in limited harm to this part of the Cotswolds National Landscape (CNL) the Council’s Landscape and Forestry Officer advised that the adverse effects were unlikely to reduce due to concerns that the layout would undermine the viability of the mitigation planting.
6. Whilst there was some discussion regarding the methodology and presentation of effects in the LVIA, at the hearing, the Council Officer did not disagree with the inputs and outputs. Rather his concerns were consistent with those of the Council’s Landscape and Forestry Officer. Based on the written and oral evidence provided I am satisfied that the Council did not irrationally elevate the harm to the CNL or

present vague, generalised and inaccurate assertions but rather exercised reasonable planning judgement in respect of this matter.

7. Turning now to heritage matters, the appellant's evidence included a Heritage Desk-Based Assessment (HD-BA) at planning application stage which concluded that the proposed development would result in only minor, less than substantial harm to the Charlbury Conservation Area (CCA). The Council's Conservation and Design Officer concluded that the harm to the CCA would be less than substantial and "probably on the low side of that range".
8. The Council in their appeal written evidence and at the hearing advised that the site has "considerably greater heritage significance" than the officer's report and the HD-BA suggested. The Council Officer also, suggested that the harm to the CCA would be very significant, although still less than substantial.
9. Officers are not duty bound to follow the advice provided by consultees, provided that there are sufficient planning grounds to come to a contrary view. In respect of heritage matters the officer's decision to elevate the scale of harm is largely unsubstantiated and failed to provide any form of objective analysis of the submitted evidence. It is also inconsistent with the conclusions of the HD-BA and not based upon any further heritage advice from the Council's own expert.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of heritage matters 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 West Oxfordshire District Council shall pay to Mr Bob Mackenzie, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of heritage matters; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to West Oxfordshire 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.

B Thandi

INSPECTOR