



Costs Decision

Site visit made on 24 April 2019

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 05 June 2019

Costs application in relation to Appeal Ref: APP/T3725/W/18/3206423 Land south of Lloyd Close, Hampton Magna

- 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 M Grimes, Richborough Estates Limited for a partial award of costs against Warwick District Council.
 - The appeal was against the refusal of planning permission of the erection of up-to 147 dwellings together with vehicular/pedestrian access from Daly Avenue; Green Infrastructure including a play area, other open space and landscaping; sustainable drainage; and other related infrastructure.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance 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. The application was made in writing and related to the first two reasons for refusal concerning the effect on the character and appearance of the area and highway safety. No application was made in respect of the third and fourth reasons for refusal relating to ecology and affordable housing, infrastructure and other facilities.
3. The application considered that these reasons for refusal provided vague, generalised and inaccurate assertions about the proposal's impact. No response to the application was received from the Council.
4. In respect of both reasons for refusal there was no specific evidence submitted by the Council as to why the development was harmful. In relation to the effect on the character and appearance there was little cognisance of the fact that the illustrative layout was just that. While the officer report, the only document the Council submitted in justifying the refusal, did set out concerns about some areas within this layout it did not identify these areas clearly or explain specifically how these would cause harm which could not have been resolved at the reserved matters stage.
5. In relation to the concerns on highway safety there was no justification as to why a figure of a maximum of 150 dwellings was considered to be acceptable from a single point of access. It was left to the appellant to find a different figure (100 dwellings) from a document published by the Warwickshire County

Council some years ago. There was no evidence from either the highway authority or the Council to justify its maximum figure nor any analysis of the road network to explain why the proposal would have led to harm.

6. In light of this I consider that the Council unreasonably refused the application in respect of the first two reasons for refusal. This led to the appellant being involved in unnecessary expense in being required to make an appeal on these matters.

Costs Order

7. 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 Mr M Grimes, Richborough Estates Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of responding to the first two reasons for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. 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.

RJ Jackson

INSPECTOR