
Costs Decision

Site visit made on 12 September 2016

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10th October 2016

**Costs application in relation to Appeal Ref: APP/C3105/W/16/3152557
S & S Motors, Ploughley Road, Lower Arncott, Bicester, Oxfordshire OX25
1NY**

- 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 S & S Motors for a full award of costs against Cherwell District Council.
 - The appeal was against the refusal of planning permission for the redevelopment of site for the erection of nine new 2-storey open market dwellings, with associated parking spaces and upgraded access.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
 4. The Appellant submits that the Council acted unreasonably in that they had previously indicated broad support for the proposal, that Arncott is deemed a highly sustainable location to accommodate new residential development, and that the District is still seeking to accommodate around 3,500 extra dwellings which cannot be accommodated at nearby Oxford. Additionally, it is considered that the refusal of the application is an attempt to thwart development at the neighbouring land at the Tally Ho hotel rather than a proper consideration of its own merits.
 5. As I understand it, pre-application advice was provided by the Council which indicated that the principle of the residential development of the site was acceptable. Whilst it is regrettable that the determination of the planning application contradicted that pre-application advice, such advice is usually given without prejudice to the final determination of any application. However,
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this is a matter for local government accountability rather than an issue relating to the planning merits of the appeal.

6. Turning to whether Arncoth is a highly sustainable location, there is no dispute between the main parties that it is suitable for some additional residential development. The Council's concern was based upon the effect of the development on the character and appearance of the area, being a 'backland' style proposal. In this respect, I consider that the Council provided sufficient evidence to justify their views and as such no unreasonable behaviour occurred.
7. At the time of the adoption of the Cherwell Local Plan 2011-2031 (LP) it was acknowledged that there would be some unmet housing need arising from Oxford. Whilst the exact amount to be accommodated within Cherwell was not agreed at that point in time, the LP made provision for this by means of a partial review within 2 years (i.e. by July 2017). I understand that there has now been an agreement over the number of extra dwellings to be accommodated within Cherwell.
8. Given the relatively recent adoption of the LP and the inbuilt mechanism to take account of this unmet housing need arising from Oxford, this does not mean that the LP is out of date when considered against the overall housing and sustainable development objectives of the National Planning Policy Framework. Consequently, as I noted in my decision, I considered that the housing supply policies are up-to-date. Therefore, in determining the application in accordance with the LP, I consider that the Council have not acted unreasonably.
9. Finally, it has been stated that the Council's decision appeared to be based more on an attempt to thwart potential development on a neighbouring site. From the evidence before me, there is nothing to suggest that this is the case. Furthermore, the development referred to, having been refused planning permission prior to the submission of the appeal proposal, has also been dismissed at appeal¹ on the 16 June 2016.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Chris Forrett

INSPECTOR

¹ APP/C3105/W/16/3145472