
Costs Decision

Site visit made on 13 June 2017

by J Ayres BA Hons, Solicitor

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

Decision date: 28th June 2017

Costs application in relation to Appeal Ref: APP/Q3115/W/17/3171547 Goats Gambol, Beech Lane, Woodcote, Oxfordshire RG8 0PY

- 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 Philip Sparks for a full award of costs against South Oxfordshire District Council.
 - The appeal was against the refusal of planning permission for the demolition and replacement of existing dwelling with new dwelling. Demolition and replacement of existing stables with new dwelling.
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Decision

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

Reasons

2. The Appellant submits that the Council has acted unreasonably in that it has failed to produce evidence to substantiate each of its reasons for refusal, and has made vague, inaccurate assertions about the proposal's impact, which are unsupported by objective analysis. The proposal complied with the development plan and should have been permitted and the necessary appeal has caused the appellant delay and unnecessary expense. This constitutes unreasonable behaviour.
3. 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.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this case, the planning officers concluded that the proposal would not result in a significant loss of sunlight or daylight to the occupiers of the neighbouring property, or materially harm the living conditions of the neighbouring occupiers in respect of privacy. Officers also advised that the proposal complied with the Council's development plan in

respect of the effect on the character and appearance of the area and the Chilterns Area of Outstanding Natural Beauty.

6. The Council subsequently failed to provide any evidence as to what harm would be caused to the neighbouring occupiers with regards to a loss of daylight and/or sunlight, and whether the level of harm would result in material harm to the living conditions of the neighbouring occupiers. The Council did not provide a professional assessment to rebut the appellant's evidence, and failed to substantiate the reason for refusal by establishing that any loss of daylight/sunlight would be in excess of the BRE standard.
7. Nor did the Council provide any evidence to sufficiently demonstrate a material loss of privacy to the occupiers of the neighbouring property. The Council's evidence stated the contrary view to that stated in the officer report, however this reason for refusal was not supported by any clear evidence that the proposal would result in harm to the living conditions of the neighbouring occupiers.
8. In respect of the second reason for refusal, the Council failed to substantiate which elements of the area of outstanding natural beauty would be harmed by the proposal, taking into account the proposal's footprint and positioning, and the history of the appeal site. The Council also introduced reference to the public footpath, which it had not referred to in its reason for refusal. In doing so it did not provide any substantive evidence to demonstrate what harm the proposal would cause to users of the footpath in respect to views of the AONB.
9. In the planning judgement, it is my view that having regard to the provisions of the development plan, national planning policy and other material considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

Costs Order

10. 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 South Oxfordshire District Council shall pay to Mr Philip Sparks, 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.
11. The applicant is now invited to submit to South 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.

J Ayres

INSPECTOR