
Costs Decision

Site visit made on 19 November 2019

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 20th December 2019.

Costs application in relation to Appeal Ref: APP/Q3115/W/19/3236203 Brackens Farm, Land adjacent to road, accessed from Windmill Road and Risborough Road, Towersey OX9 3QH

- 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 South Oxfordshire District Council for a full award of costs against Mr Dennis Evans.
 - The appeal was against the refusal of planning permission for 3 x detached houses, with solar panels, improved access, permeable paving and hedgerow border.
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Decision

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

Reasons

2. 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 applicant considers that the appellant, Mr Evans, has exhibited unreasonable behaviour in relation to the substance of the matter of the appeal. It contends that there is a clear in-principle objection to the development in this location and that the appellant was advised that the proposal did not comply with development plan policy both at pre-application stage and during the application process. It further contends that no material considerations have been put forward to justify the development as an exception to development plan policies and that the appeal therefore has no reasonable prospect of success.
4. Paragraph 53 of the PPG sets out that an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. Examples of unreasonable behaviour given include where the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
5. The Council's reason for refusal centres on the location of the proposed development outside of the built-up limits of nearby settlements, the consequent reliance on the private car and harm to the open and rural character of the site and surrounding area.

6. The appellant sought to respond to the reason for refusal with reference to the relationship of the site to nearby settlements and other developments in the local area. They provided specific arguments in relation to the sustainability of the location of the site compared to existing development and access to local services and facilities. Although they made no specific reference to policies of the development plan, the appellant recognised that the proposal does not comply with the settlement strategy. They did however refer in detail to the National Planning Policy Framework and identify other material considerations to support their case.
7. Accordingly, although I have reached a different conclusion to the appellant on the appeal, I consider that they provided detailed evidence to support their case. That evidence sought to respond specifically to the reason for refusal set out in the Council's decision notice.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, an award of costs is not justified.

L McKay

INSPECTOR