
Costs Decision

Site visit made on 11 June 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2020

Costs application in relation to Appeal Ref: APP/W0340/W/20/3244597 1 Burghfield Bridge Close, Reading RG30 3XL

- 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 West Berkshire District Council for a full award of costs against Mr and Mrs McCoid.
- The appeal was against the refusal of planning permission for the erection of a new dwelling.

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against appellants may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking a full award of costs on substantive grounds.
4. The Guidance confirms that an appellant is at risk of an award of substantive costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. One of the situations in which this may occur, as listed in the Guidance, is when the development is clearly not in accordance with the development plan, and no other material considerations 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 applicant considers that the appellants have acted unreasonably by submitting the appeal without including a Sequential Test (ST) and Flood Risk Assessment (FRA) in response to the Council's second reason for refusal. In the absence of these reports, the Council contends that, irrespective of the outcome in respect of the design of the proposal, it would be impossible for the appeal proposal to comply with Policy CS16 of the *West Berkshire Core Strategy 2006- 2026* (2012) (the Core Strategy) and the flood risk policies of

the *National Planning Policy Framework 2019* (the Framework) and, as such, the appeal has no reasonable prospect of succeeding.

6. The first two main issues to be determined in this appeal were the effect of the proposed development on the character and appearance of the area and on the living conditions of neighbouring occupiers, while the third was concerned with the flood risk implications of the new dwelling.
7. The email dated 5 August 2019 from the applicant to the appellants confirmed that the planning application would still be refused on the grounds of the first two main issues, regardless of whether a FRA and ST were to be submitted to potentially overcome the second reason for refusal. Therefore, I find that the appeal would have been necessary in any case.
8. Whilst I have not been persuaded by the appellants case, and I have dismissed the appeal, the appellants have put forward arguments in support of the appeal scheme based on the character of the surrounding area and the impact of the development upon neighbouring occupiers. The appellants failed to submit a FRA and ST as part of the appeal submission, choosing to address this matter by suggesting that the flood risk issue could be addressed through the design of the scheme and the inclusion of Sustainable Drainage Systems (SuDS) into the development. I have found that this does not satisfactorily address the flood risk issue for the reasons set out in my decision letter.
9. However, for the above reasons, and, notwithstanding my findings on the three main issues, since the proposal for a new dwelling on the appeal site has not previously been tested on appeal, I find that the appellants are entitled to make the current appeal and have not acted unreasonably in so doing.

Conclusion

10. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.