
Costs Decision

Site visit made on 7 July 2020

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 October 2020

Costs application in relation to Appeal Ref: APP/Q3115/W/20/3252165 Land adjacent to 105 Queensway, Didcot OX11 8SN

- 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 Alan Salmon for a full award of costs against South Oxfordshire District Council.
 - The appeal was against the refusal of planning permission for the erection of one additional 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 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. Councils are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter at appeal. Examples of this are given in paragraph 49 of the PPG (ID ref 16-049—20140306); vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and the failure to produce evidence to substantiate each reason for refusal on appeal and refusing planning permission on a planning grounds capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposed development to go ahead.
4. The Council has indicated a pragmatic approach has been taken but in raising a surface water drainage objection, the Council should produce substantive evidence to support its flooding objection position. It has confirmed clay substrata which would make infiltration measures less effective. However, it has not commented on the alternative surface water attenuation tanks/pond detailed in plans and an email from the agent. There is also no evidence of surface water drainage issues before me within the area or, that the relevant sewer utility provider has had concerns and/or would raise objection to a sewer connection for drainage, if that was necessary.
5. The applicant did not confirm whether the relevant sewer utility provider would grant consent for the use of a sewer for drainage. However, the onus is upon the Council to produce the evidence to demonstrate its concerns and substantiate its objections, using objective analysis. The commentary on the

diameter of the sewer pipe does not indicate whether this is too restricted for this area, taking into account only one dwelling is proposed. Furthermore, the Council has also not addressed the applicant's evidence in respect of the sandstone and siltstone geology of the site.

6. As a result of this unreasonable behaviour, the development refused could have reasonably been permitted with a drainage condition. As part of this, Sustainable Drainage Systems could be considered. The Council has prevented and delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified

Costs Order

8. 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 Alan Salmon, 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.
9. The applicant is now invited to submit to the 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.

Jonathon Parsons

INSPECTOR