Costs Decision

Hearing Held on 19 May 2021
Site visit made on 21 May 2021

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 4 June 2021

Costs application in relation to Appeal Ref: APP/G3110/W/20/3257193
58A St Clements Street, Oxford, OX4 1AH

- 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 Oxford City Council for a full award of costs against the Oxford International School.
- The appeal was against the refusal of planning permission for the 'temporary' change of use from restaurant (A3 use class) to cafeteria (sui generis use class) for use by higher education students, and provision of secure cycle parking.

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 Council submits that the appellant has acted unreasonably and caused it to incur unnecessary expense. The reasons given are that 1) the appeal did not need to be a hearing and 2) that the appeal was lodged, despite knowing that it was hopeless, as a means of frustrating the planning process.

4. I am satisfied that an informal hearing was an appropriate format for the appeal. It allowed me to explore the evidence in depth and to hear helpful discussion of this between the parties. New evidence was not introduced, but the hearing gave the appellant the opportunity to usefully clarify several points.

5. Turning to the second reason, I consider that there was merit in the appellant's arguments and that this was not a hopeless case. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise, so an application being contrary to the development plan does not automatically mean that it is unacceptable in principle. I am not in a position to comment on the motivation of the appellant but note that enforcement action could have been taken by the Council at any stage once it was aware of unauthorised development.

6. In light of the above I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award for costs is not justified.

B Davies

INSPECTOR