
Costs Decision

Site visit made on 19 April 2021

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2021

Costs application in relation to Appeal Ref: APP/U3935/W/20/3265305 Barn Cottage Swindon Road, Highworth, SWINDON, SN6 7SL

- 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 Adrian Sykes of Skye Property Group Limited for a full award of costs against Swindon Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 5 number Dwellings (Access, Layout and Scale not reserved)
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Decision

1. The application for 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. The PPG provides that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, or by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The applicant has expressed a number of examples of what he considers as unreasonable behaviour by the Council, both in terms of the procedure of the planning application and the decision to refuse the proposals.
4. Firstly, the two reasons for refusal set out by the Council were reasoned in their evidence against planning policy. Whilst I did not conclude that there would be any significant living condition impacts as a result of the driveway to the proposed houses, this does not mean that the Council were unreasonable in their conclusions on this matter. It is for the Planning Department to consider whether there would be a noise and disturbance issue and it does not necessarily have to be based on a Noise Survey or Environmental Health Officer objections. On this issue the Council sufficiently outlined their case and why they raised this reason for refusal based on noise and disturbance, even though I came to a different decision on this matter.
5. On the location of the development and its impact to the character and appearance of the proposed development, you will see from the Appeal Decision letter that I have dismissed the appeal on this basis, covering such

issues as whether the site is within the countryside and is previously developed land. As such, I do not agree that this related reason for refusal was unfounded or an unreasonable construct of the Council.

6. There is no substantive evidence before me that the Council were prejudicial, obstructive, misleading or that they ignored evidence and policies, including those within the National Planning Policy Framework (such as paragraph 38). I also see no unreasonable behaviour in the issue relating to the planning history.
7. There did appear to be some delays with the determination of the planning application, but there is no evidence that this led to the appeal being necessary. Similarly, the Council state that they complied with the Freedom of Information request, but again there does not appear to be substantive evidence that this issue could have avoided the appeal and its related costs. This costs application relates primarily to the appeal and I am not convinced that the issues raised in relation to the planning application process made any difference to the proposal being ultimately refused by the Council.
8. Other examples of developments in the area have been brought to my attention, but all are different to some extent from the proposed development at this appeal site. As such, I have considered the appeal on its own merits and I do not regard the behaviour of the Council demonstrated inconsistency or unfairness in this regard.
9. Therefore, I find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

Steven Rennie

INSPECTOR