



Costs Decisions

Site visit made on 7 December 2021

by Simon Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29th December 2021

Costs application in relation to Appeal Ref: APP/X0360/W/21/3277317 Land at Sandford Mill, Sandford Lane, Woodley, READING, RG5 4TB

- 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 Wokingham Borough Council for a full award of costs against Mr George Martin King.
 - The appeal was against the refusal of planning permission for a raised lawn to residential garden and new splayed close boarded fence and replacement gates.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Preliminary Matters

2. This case was for two appeals, one enforcement and one s78. Although both parties refer to both appeals in their statements, the Council's reasons are written as if they are seeking costs for only the s78 appeal. In fact I don't think it makes much difference as the ground (a) appeal on the enforcement case and the s78 appeal are virtually identical except for the wider splays and the shed information in the s78 proposal, but neither required any extra work on the part of the Council. Therefore I shall deal with the costs application as it is written, for a full award against the s78 appeal.

Reasons

3. The council argue the appeal was doomed to failure for two reasons, firstly no Flood Risk Assessment was provided and secondly there was no justification for sub-standard visibility splays.
4. On the second issue I agree with the appellant that the Council were wrong to treat the appeal as if it was for a new access which would be subject to the usual highways' standards. There was already a sub-standard access to the site and the appellant was suggesting improvements to it. The Council failed to consider that those improvements were better than the current lawful use of the access and that they should not insist on a perfect solution.
5. However, on the first issue I agreed with the Council that an FRA was required and should have been provided. Without it, despite finding a lack of harm otherwise, I had no choice but to dismiss the appeal. The Council are correct therefore the appeal was doomed to failure from the start. The advice in the NPPF is quite clear that all development in flood zone 3 needs an FRA. The wording of footnote 50 is incontrovertible.

6. 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

7. 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 Mr George Martin King shall pay to Wokingham Borough Council, 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.
8. The applicant is now invited to submit to Wokingham BC, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Simon Hand

Inspector