



Costs Decision

Site visit made on 24 May 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2023

Costs application in relation to Appeal Ref: APP/Q3115/W/22/3312652 Land north of B4009, Britwell Salome, Oxon

- 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 Rectory Homes Ltd for a partial award of costs against South Oxfordshire District Council.
 - The appeal was against the refusal of an application for planning permission for erection of 10 no. two storey dwelling houses including affordable housing together with the construction of a new access off the B4009, parking and garaging, landscaping and all enabling works.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 PPG advises that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal on appeal. Also, if they fail to provide reasonably requested information when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
4. The applicant considers that the Council failed to produce evidence to justify its approach to its five year housing land supply position following the appeal decision at Moreton (Ref APP/Q3115/W/22/3296061) (the Moreton appeal). In the Moreton appeal decision, the Inspector discounted a number of housing sites on the basis that the evidence available indicated that they had lapsed or were no longer deliverable within the five year period. That led the Inspector to conclude that the supply should be reduced from 5.58 years, as stated in the Council's Housing Land Supply Statement (July 2022), to around 4.74 years.
5. The Council's statement in respect of housing land supply to the Moreton appeal (January 2023) provided an updated position following their July 2022 supply statement. It found that if the five year supply was adjusted to take into account negative influences on supply since the April 2022 base date, the Council could demonstrate a 5.28 year housing land supply. The Council appended a copy of their Moreton housing land supply evidence to their submission to this appeal. I have also had sight of the applicant's housing land supply evidence submitted to that appeal.

6. The Council has responded to the findings of the Moreton appeal by stating that it maintains its view that some of the sites discounted by the Inspector at the time of the Moreton appeal should remain within the current five year housing land supply. In that regard, although there remains disagreement between the main parties on which of those sites should form part of the five year supply, I consider that the Council has not behaved unreasonably in relying on recent evidence submitted for the Moreton appeal.
7. In any event, as can be seen from my appeal decision, even if I were to conclude that there is currently an under supply of houses against the Council's five year requirement, of the scale envisaged by the applicant, I have found that the adverse effects of the proposal would significantly and demonstrably outweigh its benefits. Therefore it has not been necessary to interrogate the Council's evidence any further. In addition, I find that it does not amount to unreasonable behaviour that the Council has not undertaken a comprehensive review of housing land supply sites prior to the formal update of its five year housing land supply position which, it is reasonable to consider, would unlikely be done on a case by case basis.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been clearly demonstrated. An award of costs is not therefore justified.

Rachel Hall

INSPECTOR