
Costs Decision

Site visit made on 27 June 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 28th July 2017

Costs application in relation to Appeal Ref: APP/P1425/W/17/3172151 East Sussex Gliding Club, Kitsons Field, The Broyle, Ringmer BN8 5AP

- 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 East Sussex Gliding Club for a full award of costs against Lewes District Council.
 - The appeal was against the refusal of planning permission for the creation of safe landing strips for gliders.
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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 (the PPG) advises¹ 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. A full award of costs is sought and the application is made on a substantive basis. There are two elements to the applicant's application, the first seeks to recover the costs the applicant incurred for the period between the planning application's deferment from determination at a planning committee meeting in February 2017 and the application's subsequent determination. The second element of the costs application concerns the costs incurred in making the appeal against the refusal of planning permission.
4. With respect to the first element of the applicant's application the PPG makes it clear that costs that are unrelated to the submission of an appeal are ineligible for an award². Accordingly the costs associated with the first element of the applicant's application fall outside the scope of the costs regime.
5. The Council refused planning permission because it contended that the development would be harmful to the living conditions of residents living near the access routes to the site, as a consequence of the generation of vehicular noise and disturbance. That decision was made by members of the Council's planning committee, contrary to its officer recommendation, and following a member site visit. While members of the planning committee are not bound by the officer recommendation, the consideration of noise, and any

¹ PPG Paragraph: 028 Reference ID: 16-028-20140306

² PPG Paragraph: 032 Reference ID: 16-032-20140306

disturbance arising from it, is a matter of a more technical nature. In this instance no significant concerns about the prospect of noise being generated by the flow of works traffic were raised by either the Council's environmental health/protection officers or its planning officers. In defending the appeal the Council has submitted no evidence, ie traffic flow data and the results from background noise monitoring, to demonstrate that the scale of traffic associated with the development would generate harmful levels of noise disturbance for residents of the area.

6. I consider that the reason for refusal was expressed as a generalised assertion, which was not supported by any objective analysis when the planning application was determined. In determining the appeal I have found that the reason for refusal has not been substantiated by the evidence submitted by the Council. The decision to refuse planning permission has not been justified and was therefore an unreasonable one.

Conclusion

7. Having regard to the provisions of the PPG, most particularly paragraphs 028, 030, 032 and 049 (the second and third bullet points), I conclude that it was unreasonable of the Council to have refused planning permission, with the result that the applicant has directly incurred unnecessary and wasted expense in submitting its appeal. An award of costs is therefore 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 Lewes District Council shall pay East Sussex Gliding Club, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in making its appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed.

Grahame Gould

INSPECTOR