



Costs Decision

Inquiry Opened on 2 May 2018

Site visit made on 10 May 2018

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th September 2018

Costs application in relation to Appeal Ref: APP/W0340/W/17/3179551 Budds Plantation, Aldermaston, Reading, Berkshire RG7 4PJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by CITP Ltd for a partial and full award of costs against West Berkshire Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for the change of use of storage building (B8) and surrounding land to Construction Industry Training Facility (D1). Retrospective engineering ground works, office building and observation tower.
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Decision

1. The application for a full and partial award of costs is refused.

The submissions for CITP Ltd

2. The submissions by CITP Ltd were made in writing and so are not summarised here.

The response by West Berkshire Council

3. The response by West Berkshire Council was made in writing and so is not summarised here.

Reasons

4. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused another to incur unnecessary or wasted expense in the appeal process. For an application for costs to succeed, an applicant will need to demonstrate clearly how any alleged unreasonable behaviour has also resulted in unnecessary or wasted expense.
5. The reasons for refusal clearly identify what the Council considers to be harmful and refers to conflict with the development plan and the National Planning Policy Framework. The appellant's appeal submission was detailed with extensive appendices providing supporting evidence. In response, the Council have sought to substantiate the reason for refusal via statements of case which accompanied the officer report.
6. From the evidence before me the Council approached the determination of the planning application on the basis of the development plan and other material

considerations, including the economic benefits. This was reasonable. In that context, it will be seen from my decision that I found conflict with the development plan and that conflict was not outweighed by other material considerations.

7. Nevertheless, I endorse the appellant's point that the meaning and interpretation of Policy CS9 is a proper matter of debate about which reasonable people may disagree. As is evident from my decision, I found the appellant's case in terms of the applicability, interpretation and relevance of Policy CS9 to be convincing, and I preferred this approach.
8. The correspondence provided at the Inquiry indicates that the appellant and the Council engaged in a debate surrounding potential enforcement action, temporary permission and the withdrawal of the appeal. The process of negotiation and continued discussion between parties is good practice and encouraged.
9. However, at the time the appeal was lodged there was no guarantee that such discussions would result in a satisfactory conclusion and the Council had reasonable concerns about the development to disagree to the appellant's option to undertake not to enforce for a period of two years.
10. Moreover, if a Council is minded to not take enforcement action against a development for two years, this does not bind them to grant planning permission, or indicate that there is any case for a grant of planning permission – temporary or otherwise. Planning permission must be granted on the merits of the case, not the merits of delaying enforcement action. The fact that no enforcement notices were drafted does not prevent the Council from changing their minds and taking enforcement action at another time. There was nothing unreasonable about this approach.
11. I acknowledge the appellant's frustration surrounding the consideration of acoustic and ecology matters at the Inquiry, matters which he thought had been satisfactorily addressed. Nevertheless, given the outstanding objection from Natural England and the arguments surrounding the tranquillity of the area, such matters would have needed to have been addressed anyway. In any event, once an appeal is made, a proposal is considered *ab initio*¹ and I found the submitted evidence useful in reaching my decision.
12. Having regard to the above and based on the evidence before me, I cannot conclude that an appeal was unnecessary in this case. The individual circumstances of the proposal necessitated assessment on its own merits given the subjectivity of issues in dispute and judgements involved. The appellant, therefore, did not suffer wasted expense in pursuing the appeal, despite its outcome.
13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Joanne Burston

INSPECTOR

¹ This Latin phrase means afresh, from the beginning.