



Costs Decision

Site visit made on 11 June 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2019

Costs application in relation to Appeal Ref: APP/X1735/W/18/3214079 Land adjacent to Mandai, St Peters Road, Hayling Island PO11 0RT

- 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 Laurence Stanley for a full award of costs against Havant Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for use of land for touring caravan site.
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Decision

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

Reasons

2. The Planning Practice Guidance¹ (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and if vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, are made.
3. The applicant claims that the Council has acted unreasonably and refused to grant planning permission contrary to the advice of its professional officers, in ignoring national and local planning policy in support of tourism and small businesses. It is alleged that planning permission should have been granted in a timely manner, having regard to planning policies and other material considerations. Furthermore, the applicant considers that if the Council did not have all the information necessary to determine the application, the decision could have been deferred to enable further information to be sought. Lastly, the applicant argues that the Council acted unreasonably by refusing planning permission on planning grounds capable of being dealt with by conditions.
4. The fact that the Planning Committee did not agree with the Case Officer's recommendation does not in itself constitute unreasonable behaviour. Members are entitled to reach a different view, provided they do so whilst relying on substantive planning grounds. In this particular instance, the Minutes to the Committee Meeting show that a number of issues were discussed as part of the debate, but that ultimately, the decision was made to refuse due to concerns about the location of the development within the countryside and the effect that would be caused to the character and appearance of the area. On this basis, no suitable conditions would have enabled the proposal to go ahead, and

¹ Paragraph: 030 Reference ID: 16-030-20140306.

there was no need for deferring the Committee's decision. Although I have taken a different view on this particular matter, I am satisfied that the Council provided appropriate justification for their decision as part of their appeal statement.

5. The Council's reason for refusal erroneously referred to Policy CS9 of the Havant Borough Local Plan – March 2011 (CS) and the 2012 National Planning Policy Framework (the Framework), and omitted CS Policies CS5 and CS16. The Council's actions, by failing to quote the relevant policies, constitute unreasonable behaviour. However, the PPG is clear that for costs to be awarded, the unreasonable behaviour must have directly caused another party to incur unnecessary or wasted expense in the appeal process.
6. Having regard to the description of development and reason for refusal contained within the Council's decision notice, but also to the Committee Report, it would have been clear to the applicant that CS Policy CS9 was not relevant to the appeal scheme. Whilst the reason for refusal should have referred to the relevant development plan policies and the 2018 Framework, the Council's errors would not have prevented the appeal.
7. The Council raised additional concerns during the appeal process in respect of the effect of the development on the Solent Special Protection Areas, following revised advice issued by Natural England. Having regard to the evidence before me, these did not appear to be known at the time the application was determined. As a result, the Council did not act unreasonably in that particular regard.
8. I therefore find that unreasonable behaviour or wasted expense, as described in the PPG, has not been established. On this basis, I conclude that an award of costs is not justified.

S Edwards

INSPECTOR