



Costs Decision

Hearing Held on 28 August 2019

Site visit made on 28 August 2019

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2019

Costs application in relation to Appeal Ref: APP/J3530/W/18/3211917 Church Farm Holiday Park, Church Farm Road, Aldeburgh IP15 5DW

- 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 Luton Caravan Centre Ltd for a partial award of costs against Suffolk Coastal District Council.
 - The hearing was in connection with an appeal against the refusal of an application for planning permission for development described as 'proposed siting of 34 high quality holiday lodges (static caravans) in lieu of 85 touring caravan pitches together with peripheral and supplemental landscaping.'
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. PPG also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded.
4. The crux of the applicant's case in seeking an award for costs appears to be grounded in substantive matters. Namely that in refusing planning permission the Council has prevented development that could reasonably be permitted. As a consequence, the applicant considers that they have incurred wasted expense in taking the scheme to appeal through its preparation and submission along with supporting documents.
5. The Council refused planning permission for a number of reasons. I shall not engage with the fifth reason since submissions agree the position on this was common ground by the time the scheme came to appeal. Broadly speaking then, the Council's remaining objections were based around the unacceptable loss of a touring caravan site, the effect of the proposed development on the

character and appearance of the area, land being at an unacceptable risk of flooding and the possibility of the lodges becoming permanent dwellings in the countryside. I shall address each issue in turn in the context of the applicant's claim.

6. The key argument from the applicant in respect of the first reason appears to come from a lack of a counter position to theirs on the matter of tourist spend. It being the Council's position that the scheme would result in an economic disbenefit overall. I agree that the Council's counter argument to this relies on limited evidence albeit is grounded in some logic insofar as the scheme would significantly reduce the number of available individual holiday plots. The Council's evidence does also refer to background studies. That aside, and on my understanding of the first reason, there were two prongs to the Council's objections. The first and to my mind primary concern being that the appeal scheme would result in a loss of a specific type of tourist accommodation, consequently reducing the range on offer. The Council have made sufficiently clear their position on this matter, directing attention towards the individual section of the policy to which it relates. In this case criterion (g) of Policy SP22.
7. On the second reason, the applicant states that the Council's officers have 'wilfully ignored' the advice of a qualified officer on the matter of landscape harm. Whilst I note the Council's relevant advisor clearly takes a different view to officers determining the application it is perhaps important to bear in mind that the landscape advice was that of a consultee into the planning application process. The determining officers are not duty bound to follow that advice. They are still tasked with making a judgement on the merits of the case, views taken and the development plan. The outcome of that judgement can be on subjective matters. The Council's officers have, as far as I can see, explained their position on character and appearance matters, identified harm as precisely as is reasonable to do and made a conclusion thereon in accordance with the development plan.
8. I note that the Environment Agency ultimately confirmed that they did not object to the proposed development on flood risk grounds. The applicant suggests that numerous planning permissions have been granted in flood zones 2 and 3 for similar development. Be this as it may, the applicant's submission for costs does not direct me to any examples. In any event, as I have pointed out above, the Council's officers are equally not duty bound to follow the advice of consultees if they determine, on reasonable and proportionate planning grounds, that there remain concerns about a given development. Again, the Council have been clear where they feel the harm would be caused and accordingly stated to which policies of the development plan such harm would run contrary.
9. I have some sympathy with the applicant on the fourth reason for refusal. It appeared to be the case that the Council cited in part the applicant's intentions for year round occupation of the site through the proposed new lodges. Indeed, having seen the submissions on arguments to not include a stay restriction one can see how the Council arrived at that view. However, and notwithstanding, it was still in the Council's power to impose a stay limitation condition or such other conditions that would prevent year round occupancy. It was discussed and agreed at the hearing that there were a number of ways to reasonably achieve this which would have largely the same impact, result and

burden to enforce. With this in mind, I am inclined to agree with the applicant that this should not have been a reason to refuse planning permission.

10. That said, had this reason not been included, it would not have prevented planning permission being refused and reading the applicant's position it seems sufficiently clear they would still have appealed. The removal of this reason would not therefore have obviated the need for an appeal. In addition, there is something in the region of four pages of the applicant's appeal statement devoted to the argument in respect of this reason for refusal, much of that argument been elaboration on points made previously. There was some discussion on this reason for refusal at the hearing but it was relatively brief.
11. With this in mind, and whilst one could legitimately argue the Council have acted unreasonably including this reason for refusal, I cannot see how such action has lead to unnecessary or wasted expense.

Conclusion

12. With the above in mind, and overall, I find that the Council's actions have not amounted to such that has caused the applicant to incur unnecessary or wasted expense. A claim for costs is not therefore justified. Accordingly, it is hereby refused.

John Morrison

INSPECTOR