



Costs Decision

Site visit made on 5 July 2019

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2019

Costs application in relation to Appeal Ref: APP/L1765/W/19/3222429 Meadows Farm, Ervills Road, Hambledon PO7 4QU

- 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 J Chambers for a full award of costs against Winchester City Council.
 - The appeal was against the refusal of planning permission for use of the first floor mezzanine and partial use of ground floor of (northwest) agricultural storage building for office purposes (Class B1).
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Decision

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

Reasons

2. The Government's Planning Practice Guidance ('the 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 appellant's costs application refers to four specific examples of alleged unreasonable behaviour in the processing of the appeal application. Two of these relate to the appellant's opinion that there were inadequate references to local and national planning policies in the officers' committee report and the Notice of Refusal. A third allegation relates to alleged inadequacies of the Council's handling of the Members' site visit and a fourth to what is considered to be the Council's unfair treatment of the representation from the occupier of Meadow Farm House.
4. Turning firstly to the Notice of Refusal, the appellant considers that the Council failed to follow the advice in the PPG by not specifying which of the nine tests of Policy DM17 and the five requirements of Policy DM23 fail to be met by the appeal scheme. However, I see no reason to do this as the harm that the proposal is considered to cause is clearly and succinctly identified in the Refusal Notice. And there is no difficulty in this instance in linking the alleged harm to the relevant test or requirement within these policies.
5. Secondly as regards the report, I see no need for there to be an especially detailed analysis of the scheme in relation to the policies. There is a direct inverse relationship between too much detail on the one hand and clarity on the other. From my reading of the report I was left in no doubt as to why the officers supported the development and recommended it for approval, and I also have no reason to conclude that this was not also the position for

Members. Whilst there may be a reasonable point that further emphasis should have been given to the positive approach urged by the National Planning Policy Framework and Core Strategy Policy DS1, this would have been unlikely in itself to have removed Members' doubts of the development's merits when assessed against the objections of some consultees as to the potential for traffic and light pollution to have unacceptable adverse effects.

6. Turning to the Members' site visit, the timing of the visit was during daylight hours, which precluded the effective demonstration of external lighting. However, this was still part of the refusal, with the other complaint of the appellant being that the site visit provided no evidence whatsoever of noise and disturbance from vehicle movements. Be that as it may, the site visit would have been informative for Members as regards the context in which they should have regard to all relevant material considerations including the application of the policies, the advice of the officers and the third party representations both for and against the development.
7. The fourth and final ground for the costs application is that the representation from the occupier of Meadow View Farm was categorised by the Council as an objection when in fact it was a neutral observation. As the appellant points out, the admission that this was an oversight from the officer when originally contacted by the agent does not tally with the Council's costs rebuttal which argues that the mere raising of concerns, albeit without a view for or against, warranted its inclusion within the list of objections.
8. In my view the Council was in error in failing to report the neutral view of this consultee, but there is no evidence that this administrative irregularity materially influenced the Members towards the refusal of the application. It is not at the heart of the application or the way it was processed and considered.
9. Taking the four main points of the costs application together, I do not conclude that either individually or collectively they comprise unreasonable behaviour by the Council. The officers' report was clear and included sufficient detail to arrive at a balanced conclusion in favour of a grant of permission subject to conditions.
10. As regards Members, I take the view that they gave too much weight to objections from local residents and others, and too little to the officers' professional judgement. In particular they failed to isolate the appeal proposal from a wider and controversial backstory that appears to inform previous planning and development matters relevant to Meadows Farm. Nor were the favourable aspects of employment generation and facilities embodied in national and local planning policy given the consideration that they deserve.
11. However, with all that said, I am of the view that the decision to refuse the application falls within the scope of planning judgement that can be regarded as reasonable, rather than falling within the overall thrust and examples of unreasonable behaviour in the PPG. I therefore conclude, on balance, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Martin Andrews

INSPECTOR