



Costs Decision

Hearing held on 11 December 2019

Site visit made on 12 December 2019

by David Prentis BA BPI MRTPI

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

Decision date: 20 December 2019

Costs application in relation to Appeal Ref: APP/N1730/W/19/3235219 Lord Wandsworth College, The Street, Long Sutton, Hook RG29 1TB

- 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 Long Sutton and Well Parish Council for a full award of costs against the Headmaster, Lord Wandsworth College.
 - The hearing was in connection with an appeal against the refusal of planning permission for:
 - Land off Hyde Road - full planning permission is being sought for the erection of 17 dwellings including 2 x 2 bedroom bungalows, 3 x 2 bedroom houses, 6 x 3 bedroom houses, 4 x 4 bedroom houses and 2 x 5 bedroom houses
 - Land at Long Sutton Primary School - installation of new Multi Use Games Area (MUGA), visitor/staff/tennis court parking and coach layby
 - Hesters View - outline planning permission (all matters reserved except for access) for the erection of 8 affordable dwellings (2 x 2 bed and 6 x 3 bed)
-

Decision

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

Reasons

2. Planning Practice Guidance 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. An appellant is at risk of an award of costs being made against them if the appeal had no reasonable prospect of succeeding. One example of that is where the development is clearly not in accordance with the development plan and no other material considerations, such as national planning policy, are advanced that indicate the decision should have been made otherwise.
3. Planning Practice Guidance also states that it is not anticipated that awards of costs will be made in favour of interested parties¹, other than in exceptional circumstances. Moreover, an award will not be made in favour of an interested party even in circumstances where a finding of unreasonable behaviour by one of the principal parties relates to the merits of the appeal². An award may however be made in favour of an interested party on procedural grounds³.

¹ Other than Rule 6 parties under the Inquiries Procedure Rules

² In this case the Council did not make an application for an award of costs

³ Reference ID: 16-056-20161210

4. The application was made in writing. It was argued that the weight of harm, the number of reasons for refusal and clear departure from the development plan without justification demonstrated that the appeal was unlikely to be successful. Moreover, the appellant had not advanced a full case, particularly on significant matters of landscape and heritage harm where it had not submitted any expert supporting evidence. The technical information submitted on ecology, trees, highways and drainage was inadequate.
5. The appellant's response was also in writing. It was submitted that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. In this case there were strong material considerations weighing in favour of the proposals. The appellant's planning consultant was appropriately qualified to deal with the landscape and heritage matters arising in this appeal.
6. The first limb of the application relates to the merits of the appeal. In this case the proposals were clearly in conflict with the saved policies of the Hart District Local Plan 1996 – 2006 and the saved policies of the First Alterations to the Hart District Local Plan 1996 – 2006. In particular, there was no dispute that the proposals were in conflict with Policy RUR 2 which seeks to restrict development in the open countryside, outside the defined settlement boundaries. However, the appellant provided evidence regarding other considerations which, it was submitted, should outweigh that conflict.
7. For all of the reasons set out in my appeal decision, I did not find the other considerations relied on by the appellant to be compelling. Even so, I have not identified any exceptional circumstances that might justify an award of costs to an interested party on the substance of the case.
8. Reasons for refusal (5), (6), (7) and (8) referred, respectively, to a lack of information in relation to highways, ecology, trees and drainage. It is right to point out that additional technical information was submitted with the appeal. However, I consider that this information provided further detail which was broadly consistent with the information that had been provided with the application. In my view this was a genuine attempt to resolve matters of concern and narrow the differences between the parties. I do not think that amounted to unreasonable behaviour.
9. It was for the appellant to decide whether to instruct specialist witnesses on landscape and heritage matters. On a scheme of this scale it is not uncommon for such matters to be covered by a planning witness. I conclude that there are no procedural grounds for an award of costs.
10. In view of the above findings, it is not necessary for me to comment further on whether unnecessary or wasted expense was incurred. The conditions for an award of costs have not been met.

David Prentis

INSPECTOR