



Costs Decision

Site visit made on 10 December 2019

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 08 January 2020

Costs application in relation to Appeal Ref: APP/Y9507/W/19/3238228 Land north of Pound Farm, Gracious Street, Selborne, Alton GU34 3JG

- 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 Mrs Roberts against South Downs National Park Authority.
- The appeal was against the Authority's failure to give notice within the prescribed period of a decision on an application for planning permission, Ref SDNP/19/02082/FUL, dated 29 March 2019, for a 'replacement stables & sand school' (the development proposed as described on the application form).

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However the Planning Practice Guidance ('PPG') explains that costs may be awarded against a party who has behaved unreasonably, and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process.¹ Costs applications may relate to events, if not expenses incurred, before an appeal was brought.²
3. The appellant contends that the Authority failed to engage in a positive and timely manner regarding the development proposed, and to adequately justify their objections to it. Costs applications are separate to appeal decisions; that I allowed the appeal does not indicate that unreasonable behaviour occurred (whether procedural or substantive). Paragraph 38 of the National Planning Policy Framework ('NPPF') guides that local planning authorities should approach decisions in a positive and creative way.
4. The application was not determined in the relevant statutory period. I understand that a meeting on-site was not agreed to by the Authority in order to discuss the proposal. I am also told that the Authority did not correspond with the appellant by one informally-set deadline which they indicated would have been met. The appellant's application also indicates that the case officer's line manager was unfamiliar with the site.
5. Conversely I am told by the Authority that the appellant requested a delay in respect of determination and then proceeded to appeal, or that such was necessary to secure accurate plans. Setting aside who said what and when, informal correspondence from the Authority before me sets out how they were

¹ Reference ID: 16-028-20140306.

² PPG Reference ID: 16-032-20140306.

unsupportive of the scheme (broadly for the reasons set out in section 1.7 of their appeal statement). It also appears that there was some constructive engagement between the main parties during the application, for example regarding the accuracy of plans and details of drainage provision. There is a separate process for disputes in respect of validation.³

6. Notwithstanding measurement discrepancies highlighted in paragraph 12 of the associated appeal decision, application Ref SDNP/19/02082/FUL was for a larger arena than a previously refused scheme (Application Ref SDNP/18/05749/FUL) which in turn followed two previous applications.⁴ The appellant would therefore have been aware of the Authority's stance. The encouragement in the NPPF to work positively and creatively does not indicate that all development can be rendered acceptable. That the appeal was made against non-determination is therefore of little significance.
7. I further understand that the Authority met with the appellant, albeit not on site, to discuss their concerns. There is nothing to indicate that doing so was required, or that the case officer was unfamiliar with the site and its surroundings. Informal deadlines may be missed from time-to-time by accident rather than design. In that context, and given the planning history to the site, it cannot reasonably be said that the Authority's procedural handling of the application forced the appellant into appealing.
8. Substantively I understand that the Authority did not agree with the advice provided by a landscape officer at Havant Borough Council, namely that planting would largely screen the proposal.⁵ The Authority appear to have assessed the scheme as for a sand school with an area of 2,400sqm as opposed to 1,500sqm as shown on the plans. I also accept that the appellant's perspective on the effect of the proposal differs to that of the Authority.
9. However the Authority is not bound to accept the advice of any one officer or consultee, and effects in respect of character and appearance are inherently a matter of judgement. It is unclear how the Authority arrived at their measurements. However at 1,500 sqm, the arena proposed via application Ref SDNP/19/02082/FUL exceeded the size of that previously proposed and refused via application Ref SDNP/18/05749/FUL on similar grounds. Although there are differences between the schemes, the Authority was nevertheless previously unsupportive of a smaller proposal in this location.
10. Moreover at appeal the Authority has held the proposal up against relevant elements of the South Downs Local Plan (adopted 2 July 2019, the 'LP'). They have substantiated their position with careful consideration of relevant policies and the nature of the area. The appellant does not identify other errors of fact. And, as set out in the associated appeal decision, the proposal would inevitably introduce a substantial geometric form composed of imported materials, altering what is presently an essentially natural site in a landscape accorded specific protection on account of its scenic character.

³ Under article 12 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 as amended.

⁴ Ref SDNP/16/02323/FUL in 2016 and Ref SDNP/18/04385/FUL in 2018

⁵ In lieu of a landscape officer as East Hants District Council unavailable at the time.

11. For the above reasons, and with regard to the approach in the PPG, it has therefore not been demonstrated that unreasonable behaviour resulting in unnecessary or wasted expenses occurred. In my view the Authority's handling of the current scheme was appropriate and its opposition to it reasonable. The costs application ultimately boils down to a difference of opinion in respect of the planning merits of the scheme.

Conclusion

12. Having taken account of all relevant matters, I therefore conclude that no action or inaction taken by the Authority in this instances amounts to unreasonable behaviour. Accordingly, and with reference to the approach in the PPG, an award of costs is not justified.

Thomas Bristow

INSPECTOR