
Costs Decision

Site visit made on 6 February 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2020

Costs application in relation to Appeal Ref: APP/L1765/W/19/3237104 Meadows Farm, Ervills Road, Worlds End, 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 Jason Chambers for a full award of costs against Winchester City Council.
 - The appeal was against the refusal of planning permission for replacement of existing bridge serving public right of way.
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Decision

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

Reasons

2. Paragraph 028 of the Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process.
4. Paragraph 049 of the Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a substantive award of costs include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. The applicant states that the appeal was unnecessary, as the Council refused development which accorded with the development plan and no other material considerations suggested otherwise. In particular, the applicant asserts that the Council: misconstrued and misrepresented previous decisions in respect of the appeal site; relied on untested and unfounded assertions made by the Parish Council; and introduced development plan policies into the reason for refusal that were not included within the Officers Assessment.

6. I find that the Officers Assessment includes inaccuracies in respect of the reporting of the appeal site planning history in respect of applications 06/02947/FUL and 08/00764/FUL and the associated appeal. However, I accept the Council's response that the purpose of this part of the report was to assist in setting the appeal scheme within the context of the planning history. Since I find that these applications related to different schemes to that of the current appeal, and that no scheme for a bridge on the appeal site has previously been approved, I do not find that these errors within the Officers Assessment amount to unreasonable behaviour within the context of this appeal.
7. The Denmead Parish Council comments form part of a list of representations, which are not commented upon individually, within the Officers Assessment. Neither the Officers Assessment nor the Council's Statement of Case specifically endorse the comments of the Parish Council in respect of the impact of the appeal scheme on the countryside views which are listed in *Hampshire Treasures*. Furthermore, the reason for refusal makes no reference to this matter. I do not therefore find that unreasonable behaviour has arisen, since there is no evidence that the Council reached its decision on the basis of these comments.
8. The Officers Assessment focusses upon how the appeal scheme fails to accord with LPP2 Policy DM23 in respect of its impact on the rural character of the area. Notwithstanding this, the reason for refusal on the final page of the report does include reference to all the development plan policies which are referred to in the reason for refusal.
9. The Council's email to the Appellant dated 13 June 2019 confirms that the inclusion of LLP1 Policy CP17 was an error. However, it was clear from the contents of the Officers Assessment that the Council did not raise an objection to the development on flooding grounds.
10. Furthermore, the email from the Planning Officer to the Appellant dated 20 June 2019 confirms how the remaining policies listed in the reason for refusal relate to the Council's concerns about the impact of the scheme on the character and appearance of the area and did not introduce any new issues that were not covered within the Officers Assessment.
11. I find that the reason for refusal as set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly sets out the policies of the Winchester District Local Plan Part 1 (LPP1) and Winchester District Local Plan Part 2 (LPP2) against which the appeal scheme is in conflict, notwithstanding the erroneous inclusion of Policy CP17. This reason has been adequately substantiated by the Council in its Officers Assessment and Statement of Case. These documents demonstrate why the Council consider that the development results in harm to the character and appearance of the area.
12. Accordingly, whilst I have not been persuaded by the Council's case and I have allowed the appeal, I find that the Council was entitled to refuse the application and defend the appeal and has not acted unreasonably in so doing.
13. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Leonard

INSPECTOR