



Costs Decision

Inquiry Held on 22-25 October 2019 and 8-9 January 2020

Site visit made on 10 January 2020

by Kevin Ward BA (Hons) MRTPI

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

Decision date: 15th May 2020

Costs application in relation to Appeal Ref: APP/N2739/W/19/3231656 Gascoigne Wood Interchange, Lennerton Lane, Sherburn in Elmet LS25 6LH

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Harworth Group PLC for a partial award of costs against Selby District Council.
 - The Inquiry was in connection with an appeal against the refusal of the Council to grant planning permission for development described as outline planning application with all matters (scale, appearance and layout) except access and landscaping reserved for the demolition of existing colliery buildings and the construction of up to 186,000sqm (approx. 2,000,000sqft) of Class B2/B8 and associated Class B1 floorspace, with supporting container storage area and associated buildings, trackside facilities, access and landscaping.
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Decision

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

The submissions and response

2. Given time constraints it was not possible to hear the application for costs at the Inquiry. It was submitted in writing on 13 January 2020 and the response was submitted in writing on 20 January 2020.

Reasons

3. The 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.
4. The Council's officers were involved in pre-application discussions and a planning performance agreement was entered into with the Appellant. The planning performance agreement makes it very clear however that it did not predetermine or prejudice the proper consideration and determination of any future planning application. Officers supported the proposal and recommended approval of the planning application. However, it was clearly recognised that it was contrary to the development plan and the Planning Committee was entitled to take a different view that material considerations did not outweigh this conflict. The Council's decision to refuse planning permission for a proposal that was considered to be contrary to the development plan was not

- unreasonable, despite the support for the proposal from officers and the extent of pre-application engagement.
5. The reason for refusal was clear and referred specifically to relevant development plan policies. The Council provided clear evidence to the Inquiry to support its decision and the reason for refusal. Again, it did not behave unreasonably in this respect.
 6. It is an undisputed fact that the proposed development would result in a loss of some best and most versatile agricultural land and the Appellant clearly recognised that this is a factor which should be taken into account. The Council's case and evidence on this matter was simple and related to the principle of the loss of such land. Given the nature of the proposal, the policy background and the other issues in the case, this was a proportionate and reasonable approach.
 7. The reason for refusal clearly refers to the scale of the proposed development and makes specific reference to Policy SP13 of the Selby District Core Strategy Local Plan (the Core Strategy) along with the Spatial Strategy. Policy SP13 sets out the figures for employment land provision in the District. The Committee Report of 5 December 2018 clearly highlights the situation regarding the supply of employment land in relation to these figures for provision. The Council's statement of case for the appeal clearly sets out its position on the matter and the proof of evidence from Mr Wood on behalf of the Council addresses the issue of employment land requirements and how supply relates to those. The Appellant also addressed the issue in the proof of evidence from Mr Gent.
 8. The Council did not argue that the employment land provision figures should be regarded as a maximum and that the policies imposed a cap. There is no evidence that it has done so when considering development proposals elsewhere. Whilst there are issues with the accuracy of monitoring information and the Council's figures for the specific current supply were amended during the Inquiry, its position in principle that supply far exceeds the provision figures and that this provides part of the context for the proposed development remained consistent. The Council has granted planning permission, or is minded to, in other cases in the knowledge that the supply of employment land exceeds the provision figures. However, there were clear reasons given for the approach taken which reflected the particular circumstances that applied in those cases. The Council has not behaved unreasonably in respect of this matter.
 9. Paragraph 6.34 of the Core Strategy states that the Council supports the reuse of the former Gascoigne Wood mine, provided this is directly linked to the use of the existing rail infrastructure that exists at the site. The proposed development goes well beyond the reuse of the former mine site. The Council's support for the reuse of the former mine site, as expressed in Paragraph 6.34, is understandable, given the legitimate desire to make best use of such previously developed sites. This does not affect the position on whether the site is sustainably located. There would clearly be a range of factors to take into account should a proposal for the reuse of the former mine site on its own come forward.
 10. Whilst the Council has entered into the S106 Agreement which includes commitments in the Travel Plan to secure a 10% modal shift, this has not

changed its position in terms of the principle of the overall sustainability of the proposed development in this location and its view that it would be poorly served by public transport.

11. The Council's approach to the above matters and the question of the locational sustainability of the appeal site was not unreasonable.
12. Although a 283ha site at Gascoigne Interchange is identified as a key development site in the Council's Economic Development Framework (EDF), it is not clear how this larger site relates to the smaller appeal site (101ha). The EDF is not part of the development plan, it says very little about the site and does not set out a full assessment of the sustainability of the site and development there. There is no requirement for existing planning policies to be consistent with the EDF and its existence and contents do not mean that planning policies are out of date. The approach that the Council has taken to the weight to be given to the EDF and its effect on development plan policies is reasonable.

Conclusion

13. For the above reasons I conclude that unreasonable behaviour has not been demonstrated and the application for an award of costs is therefore refused.

Kevin Ward

INSPECTOR