



Costs Decision

Site visit made on 17 March 2020

by Christopher Butler BA(Hons) PG Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2020

**Costs application in relation to Appeal Ref: APP/X0415/W/19/3228107
Little Chalfont Village Hall, Cokes Lane, Little Chalfont, Amersham,
Buckinghamshire HP7 9QB.**

- 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 Little Chalfont Parish Council for a partial award of costs against Buckinghamshire Council - Chiltern Area (Formerly Chiltern District Council).
 - The appeal was against the refusal of planning permission for the demolition of existing buildings, erection of two-storey community centre, alteration to existing access, formation of new vehicular access and provision of cycle parking, car park, bin stores, boundary treatment and landscaping.
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Decision

1. The application for the award of costs is allowed in part in the terms set out below.

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellant's claim for an award of costs is made on substantive grounds connected to the Council's fourth and fifth reason for refusal, related to parking and highways safety and ecology matters respectively.
4. Examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.¹

Parking and highway safety

5. The Council points out that it is responsible for setting parking standards and that the County Council, acting as Highway Authority, is only responsible for assessing access and highway issues. However, the Council's reason for refusal on this matter, raised concern regarding the absence of evidence demonstrating that a lower level of on-site parking in this locality would be sufficient. As such it considered that the proposal would be likely to result in the on-street parking of vehicles, which would result in danger and inconvenience to users of the public highway.

¹ Planning Practice Guidance - Appeals - Paragraph: 049 Reference ID: 16-049-20140306

6. I note the Council's Officer report to its Planning Committee and its appeal statement of case refer to the absence of locally based evidence. However, it is clear to me that the Council's concern ultimately amounted to a concern about highway safety issues. As such, it was wholly appropriate for the Highway Authority to comment on the application and provide advice on highways issues.
7. Additionally, the appellant did submit evidence with the planning application in the form of a Transport Assessment (TA). The Highway Authority were clearly aware of the appellant's evidence in their TA and when commenting on this development they raised no objection to the proposal, subject to the imposition of conditions.
8. The Council also question how closely the Highway Authority examined the data submitted in the appellant's TA. They also considered the data used to be dated, questioned the sites chosen for analysis and whether they were representative of the high car ownership levels in Little Chalfont and point to the records used being for ad hoc days and not give a clear indication of vehicular activity across a 7 day week.
9. Despite mounting these arguments, the Council has provided little, if any, substantive or persuasive evidence that counters the appellant's TA, including any evidence that demonstrates that the data within it is flawed or that the sites chosen for analysis were unrepresentative or incompatible with the appeal site. Furthermore, bearing in mind chapter 9 of the Framework on promoting sustainable transport, no persuasive evidence has been placed before me that indicates the level of additional spaces, as sought by the Council, is defensible. The development is sustainably located, close to residential areas and public transport provision and as such I do not consider the level of on-site parking provision sought by the Council to be justified on the evidence submitted.
10. Consequently, it has been demonstrated that there was unreasonable behaviour resulting in unnecessary expense, as described in the PPG, by the Council in respect of their failure to provide relevant evidence to support its reason for refusal in respect of parking and highways. As a result, for the reasons given, a partial award of costs on this matter is justified.

Ecology/Biodiversity matters

11. It can be seen from my decision that I have considered the appellant's updated Preliminary Ecological Appraisal. However, having considered all of the evidence before me, including the standing advice of Natural England² that Ancient and Semi Natural Woodland (ASNW) is an irreplaceable habitat, I found harm to irreplaceable habitat of an ASNW and that this harm was not outweighed by the public benefits of the development. As such, I do not consider that the Council acted unreasonably in regard to this matter.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Buckinghamshire Council - Chiltern Area shall pay to Little Chalfont Parish

² Forestry Commission & Natural England standing advice - Ancient woodland, ancient trees and veteran trees: protecting them from development, published 2014, updated 2018

Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the Council's fourth reason for refusal related to parking and highway matters; such costs to be assessed in the Senior Courts Costs Office if not agreed.

13. The applicant is now invited to submit to Buckinghamshire Council - Chiltern Area, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Christopher Butler

INSPECTOR