
Costs Decision

Site visit made on 28 August 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th August 2020

Costs application in relation to Appeal Ref: APP/F5540/W/19/3231036 Hounslow Heath Golf Course, Staines Road, Hounslow TW4 5DS

- The application is made under section 322 of the Town and Country Planning Act 1990, Regulation 17 of the Town and Country Planning (Control of Advertisements) Regulations 2007, and section 250(5) of the Local Government Act 1972.
 - The application is made by Hounslow Heath Golf Centre Ltd for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against the Council's refusal of planning permission for development described as 'amendments to clubhouse approved under reference APP/F5540/W/16/3160453'
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Decision

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

Procedural Matter

2. The applicant has not stipulated whether a partial or full award of costs is sought. However, on the basis of the evidence before me, I have proceeded on the basis of a full award of costs application.

Reasons

3. The 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 or wasted expense in the appeal process.
4. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. In summary, the applicant contends that the planning application was subject to unnecessary delays, that the advice given by officers was contradictory, that unnecessary information was requested by the Council, and that the Council's decision-making lacked transparency. This, it is alleged, resulted in delays to the project and additional costs to a proposal that should have been permitted.
6. First and foremost, consistent with my S78 decision, the Council's professional officers, the Mayor of London, and the planning committee concluded that the proposal constituted inappropriate development in the Green Belt. The National Planning Policy Framework (the Framework) states that inappropriate

development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There is no definition of 'very special circumstances', thus determining whether there are 'other considerations' which clearly outweigh the totality of the identified harm, so that very special circumstances exist, is a judgment to be made by the decision maker. The planning committee found that very special circumstances did not exist. Even though this conclusion differed from their professional officers and my own determination, the conclusion they reached was not unreasonable given the Framework's underlying presumption against inappropriate development in the Green Belt.

7. The appeal proposal is inextricably linked to a larger consented development. The Secretary of State also concluded, as part of the appeal, that the proposal is EIA development¹. The relationship between the proposal and the consented scheme introduced additional complexities to the proposal which undoubtedly affected the timescale for determination. Whilst I sympathise with the dissatisfaction and frustration at the length of time it took the Council to determine the planning application, and the apparent inconsistent advice given by the Greater London Authority/Mayor of London, it has not been explained to me in sufficient detail how a delay in determining the planning application has led to additional costs for the applicant and, in any event, the PPG advises that *'awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission'*
8. Furthermore, one of the reasons for refusal relating to ecology was only sufficiently addressed through the submission of additional evidence by the applicant as part of the appeal. Having regard to the proximity of the appeal site to areas of significant biodiversity importance, and given the passage of time between the original submission relating to the wider scheme and the Council's consideration of the planning application relating to this appeal, the Council's decision to refuse the application based on a lack of up-to-date ecological information was not unreasonable. On these grounds alone, the appeal could not have reasonably been avoided.
9. During the planning application process, the Council's planning officer advised that, in his view, the planning department were unlikely to have an in-principle objection to the proposal. However, this was an informal view provided without prejudice to the application's final determination. In any event, the planning department recommended approval of the planning application to the planning committee.
10. It is put to me by the applicant that the application was deferred by the planning committee, and their decision to refuse on 'Green Belt' grounds at the second committee meeting did not relate to the reasons for deferral, nor was the principle of development raised as a concern during the first committee meeting. Be that as it may, there is no suggestion that the planning committee concluded that the principle of development was acceptable during the first committee meeting. Moreover, it does not seem unreasonable to me that the planning committee considered the application in its entirety at the second meeting, taking into account the details submitted by the applicant in order to address the reasons for deferral, in order that they could make a determination with all the necessary information before them.

¹ Regulation 14(2) of the Town and Country Planning Environmental Impact Assessment Regulations 2017 (EIA)

11. It is not for me as part of this appeal to comment on the Council's planning committee process. Ultimately, in this case, I find nothing to suggest that a decision on the planning application was not reached based on the merits of the proposal, nor that the Council were unreasonable in coming to the decision that they did.

Conclusion

12. Taking all of the above into account, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated in this case and that an award of costs is not justified.

Matthew Woodward

INSPECTOR