
Costs Decision

Hearing (Virtual) held on 9 February 2021

Site visit made on 11 February 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2021

Costs application in relation to Appeal Ref: APP/T0355/W/20/3251269 Land at Lower Mount Farm, Long Lane, Cookham, Maidenhead, SL6 9EE

- 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 Mr Geoffrey Copas for a full award of costs against the Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of outline planning permission for an equine facility.
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Decision

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

The submissions for Mr Copas

2. The costs application was submitted in writing. The following points were made orally at the Hearing.
3. The applicant sought pre-application advice and contends that it took 'months' to achieve a site visit. Despite chasing the case officer for a response, none was received. After the case officer's indicative reason for refusal was rebutted by the applicant, the reason was changed. The Council's reasoning as regards paragraph 145 of the National Planning Policy Framework (the Framework) was flawed.
4. The process was unnecessarily protracted with the Council not being proactive. Had it been, it would have helped to have a true understanding of the issues. The Planning Officer's report did not consider all the relevant policies. The applicant offered to agree a deferment of the consideration of his planning application to allow time for the consideration of the Ecology Report. The Parish Council changed its position on the application.

The response by the Council of the Royal Borough of Windsor and Maidenhead

5. The Council's response was made in writing. The following points were made orally at the Hearing.
6. Reports for the Development Control Panel are prepared 2 weeks in advance and the Ecology Report was received too late to be referred to in the Panel report. However, the Council accepts that it could have been noted in the Panel update report and that, had it been, insufficient ecological information might not have been a reason for refusal.

Reasons

7. National Planning Practice Guidance (PPG) advises that, regardless of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
8. The Council assessed the scheme against the development plan, even though its policies pre-dated the Framework and were not entirely consistent with it. The Planning Officer's report notes the presence of other buildings near the site. The effect of these buildings on the openness of the site is a matter of planning judgement. Regardless of whether or not the Council considered the scheme to be an appropriate facility for outdoor recreation, the Council considered that it failed the other tests of preserving openness and not conflicting with the purposes of including land within the Green Belt.
9. It was therefore reasonable for the Council to conclude that it was inappropriate development. Having concluded that the proposal would be harmful to the Green Belt, the Council was correct to give substantial weight to that harm in accordance with paragraph 144 of the Framework, notwithstanding that the Planning Officer's report referred to paragraph 143.
10. Although it took them a long time, the Council provided pre-application advice in a detailed response dated 3 May 2017. The appellant was advised of the recommendation to refuse the application. There is evidence of communication but given the Council's fundamental concerns with the proposal, it is not surprising that the tone of these communications was not more positive.
11. The spreadsheet submitted by the applicant as evidence of the demand for stabling / livery was reported to the Development Control Panel as part of the update report. This is to the Council's credit. Although the submission of the Ecology Report was not referenced in that update report, it would not have changed the Council's decision. The Council's concerns over the potential ecological impacts of the proposal would have needed to be addressed at some point for permission to be granted. The Council confirmed that this reason for refusal had been addressed by the information within the Ecology Report in a timely fashion following the lodging of the appeal.
12. Taking all these factors into account, I do not find that the Council behaved unreasonably overall.

Conclusion

13. I therefore conclude, for the reasons given above, that unreasonable behaviour resulting in unnecessary or wasted expense, as set out in the Planning Practice Guidance, has not been demonstrated in this appeal. The application for a full award of costs is therefore refused.

Martin Small

INSPECTOR