
Costs Decision

Site visit made on 9 March 2021

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2021

Costs application in relation to Appeal Ref: APP/K0235/W/20/3263447 Land off Roxton Road, Great Barford, Bedfordshire

- 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 Red Eagle Securities Ltd for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of outline planning application with all matters reserved except access for the change of use of the existing open vehicle storage site (Use Class B8) and the erection of 5 residential dwellings (Use Class C3).
-

Decision

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

Reasons

2. 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.
3. The applicants state that that ecology was never raised as an issue during the application process and no evidence supported its assumed significance. Additionally, there was no requirement for biodiversity improvement. The decision-making process was inconsistent bearing in mind the support for the adjacent site and the relative distances to facilities were incorrect. Information on highway matters was not passed to the County Highways Officer and could have resolved that aspect. The application was determined 14 weeks after the target determination date.
4. The Council state that they did not request an ecological appraisal at the application stage as they had other in principle objections. The Council also highlight the wording of the policy requiring an ecological improvement. The Highways Officer's response was put on the Council's website and the appellants' information did not overcome the matter.
5. The Council's supported the adjacent development being an intensively used brownfield site and provided significant affordable housing. The Local Plan did not identify the appeal site for development and the Council was unable to support the proposal. Although I did come to a contrary conclusion of the acceptability of the site for development in the main decision, the Council's stance was based on the current policy. Understandably the Council did not want to depart from a Plan adopted in only 2020. Moreover, the accessibility of the site to facilities and services is not an exact science rather they are open to

a judgement based on the pedestrian environment and nature of the village services.

6. Whilst the highway visibility aspects could have been resolved earlier, given the differences on the principle of development, this was not the fundamental point rather a detail to be agreed. The concerns about on site turning and rubbish collection were appreciable bearing in mind the very unusual shape of the site and distance from the access point.
7. The ecology concern related to the trees and vegetation on the site boundaries with the open field. I did not concur in the main decision that they were significant, but the Council's view was that they could offer potential. They relied upon Natural England Standing Advice. In any event surveys were not done and did not delay or add to the expense of the appeal. Whilst the Council accepted the biodiversity could be conditioned, this was predicated on the need for of an existing survey and consequently they did not concede the point. Local Plan Policy 43 is titled "Enhancing biodiversity" and the first criterion is the "Enhancement of the existing features", so the Council's approach was justifiable.
8. Whilst there was a delay in dealing with the application, there was the potential to make a non-determination appeal.
9. For the above reasons I conclude that the Council has not acted unreasonably, and that the applicant has not been put to wasted time and expense in pursuing the appeal. Therefore, an award of costs as described in the Planning Practice Guidance is not justified.

John Longmuir

INSPECTOR