



Costs Decision

Inquiry Held on 8-15 June 2021

Site visit made on 17 June 2021

by Siobhan Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2021

Costs application in relation to Appeal Refs: APP/Q3060/W/21/3267115 and APP/Q3060/W/21/3267115

Land off Edenbridge Court, Bramcote, Nottingham. Easting 451836 Northing 338587

- 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 Bramcote Unity Park Charitable Organisation for a full award of costs against City of Nottingham Council and Bramcote Borough Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for "a new community park comprising footpaths, 1072 new trees, recreation, education and biodiversity infrastructure and facilities together with enabling works comprising 11 dwellings".
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Decision

1. The application for costs is refused.

Reasons

2. Parties in planning appeals and other planning proceedings normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The Planning Inspectorate gives both main parties an opportunity to express a preference for the appeal method and it was not unreasonable for the Councils to respond to the Planning Inspectorate's communications in this respect.
4. In respect of the Statement of Common Ground, even if the Councils were uncooperative, it turned out during the course of the inquiry that there was little common ground between the parties anyway, so I do not consider that the behaviour or otherwise of the Council resulted in unnecessary expense.
5. The applicant asked the Council to meet their ecologist. The Council is not obliged to negotiate or agree matters in such a way because finding areas of common ground should be possible from the evidence that is already available. Appeals are not an opportunity to work up a scheme. Site meetings are conventionally undertaken at the application stage and not at the appeal stage.

6. In respect of proposed conditions, I do not consider the unusually large number to constitute unreasonable behaviour, especially as I did not find them to be unnecessary during the round table discussion during the Inquiry.
7. The Councils requested planning obligations, which had not been fully addressed in the officer reports. Notably, Broxtowe Borough Council had not referred to an affordable housing contribution. The failure to provide fuller details at the application stage or earlier in the appeal process would have been desirable but the appellant would have had to spend time addressing the obligations anyway so I do not consider that this matter resulted in wasted expense. As the proposal was submitted as one whole scheme and on a site under the control of one applicant, albeit crossing the administrative boundaries, it was not unreasonable to seek the affordable housing contribution for the 11 houses taken together. The case that the applicant has put against the affordable housing and open space contributions is more to do with planning merits rather than the costs regime so I will not address it further.
8. I have read the applicant's information about the amount of evidence they submitted and the matter of the number of witnesses. It is not for the Councils to tell the appellant what evidence to submit or who they should call as witnesses. Neither is it necessary nor conventional to undertake an ongoing dialogue between the parties about agreeing evidence after the Statement of Common Ground has been agreed.
9. There was no need for the Councils to question the description of development on the site notices as it had been described correctly, i.e., it was taken from the application form. However, this was a minor matter which did not require substantive debate.
10. It was not wholly unreasonable for the Council to provide its ecology rebuttal statement 3 days late given the quantity of evidence the appellant submitted to defend the appeal. The rebuttal evidence did not require the need for an adjournment, neither am I aware of any excessive additional preparatory work that would not otherwise have arisen.
11. I reject the applicant's claim that the appeal applications should have clearly been permitted, having regard to their accordance with the development plan, national policy and any other material considerations. This is evident in my appeal decisions.
12. The Councils were entitled to determine the appeal applications separately.
13. The applicant has drawn my attention to Paragraph: 049 Reference ID: 16-049-20140306 of the PPG which indicates that a local planning authority should review its case promptly following the lodging of an appeal. The quality of the evidence submitted and the substantiation of its case shows sufficient review.
14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the applicant's claim for an award of costs fails.

Siobhan Watson

INSPECTOR