



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 City of Nottingham Council and Bramcote Borough Council for a full award of costs against Bramcote Unity Park Charitable Organisation.
 - 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. 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. Parties in planning appeals and other planning proceedings normally meet their own expenses.
3. I have found that the proposed development conflicts with the development plan. However, planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The appellant's case was that there would be benefits of the scheme that would outweigh any conflict with planning policy. The appellant provided a significant amount of evidence in respect of the formation of a community park and the eradication of Japanese Knotweed and therefore substantiated its case, albeit, that it emerged at the inquiry that the total removal of the JKW problem would probably require removal of it outside of the appeal site.
4. 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. The appellant provided an enormous amount of superfluous appeal documentation, as cited in the Councils' claim, in a wholly disorganised fashion. I raised this at the Case Management Conference. It is frustrating that the appellant did not organise a decent and publicly accessible core document library. However, the Council was also initially uncooperative in this regard. Both parties had documents that they needed to share publicly, not just the appellant. Traditionally, the core documents are made available by the

Council at their offices and in the Inquiry room. This format was not possible due to the pandemic but, nevertheless, this does not mean that the Council are absolved of all responsibility in this respect and both parties should have co-operated at an earlier stage as requested by me at the Case Management Conference.

5. The evidence was difficult to access during the Inquiry but as the Inquiry did not over run the scheduled time, I do not consider that the lack of a properly indexed and user-friendly document library significantly wasted Inquiry time or added to the expense of the Inquiry itself. The way the appellant presented the evidence was particularly difficult to follow but, whilst the Planning Inspectorate issues guidance, there are no specific rules for the presentation or formatting of evidence, except that it must be publicly available which in the end, it was.
6. The appellant failed to collaborate with the Council in respect of the planning obligations but did not demand that the Council to draw up S.106 agreements for them, instead relying on unilateral undertakings. Whilst the Council and the appellant did collaborate eventually, this is something that would have had to be done anyway, if they had engaged earlier.
7. The appellant provided additional and amended ecology evidence during the course of the appeal but this did not lead to an adjournment. Although the Council had to provide a rebuttal in response to the revised evidence, this is not uncommon once a party has seen the opposing party's proofs of evidence. The appellant is entitled to respond to reasons for refusal in its proof and the Councils do not say that the evidence was not submitted in accordance with the appeal timetable.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the Council's claim for either a full or partial award of costs fails.

Siobhan Watson

INSPECTOR