



Costs Decision

Site visit made on 5 July 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2021

Costs application in relation to Appeal Ref: APP/N2739/W/21/3271978 Field House Farm, Skipwith, Selby, North Yorkshire YO8 5SN

- 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 Ms Wendy Tomlinson for a full award of costs against Selby District Council.
 - The appeal was against the refusal of planning permission for change of use of land to allow siting of 3 static caravans for holiday use.
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the 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. The appellant has applied for costs on a number of grounds.
3. **Ground 1:** *The LPA has assessed the development against policies which are not relevant to static caravans or tourism in the countryside.*
4. Policy SP2 of the Selby District Core Strategy 2013 (the Core Strategy) is relevant to the appeal proposal, as this policy includes provisions which relates to development in the countryside, which includes the appeal proposal. Whilst I have concluded that this policy is overly-restrictive regarding changes of use of land and does not reflect the National Planning Policy Framework (the Framework), it is not unreasonable for the Council to assess the development against this policy as part of its consideration of the proposal.
5. However, the Council refers to policy RT12 of the Selby District Local Plan 2005 (the Local Plan) which is not relevant to the appeal proposal, as this policy relates to touring caravan and camping facilities rather than static caravans. The Council's reliance on this policy is therefore unreasonable, and the appellant has been put to extra time and expense to address policy RT12.
6. **Ground 2:** *The LPA has failed to consider relevant policies in the development plan and the Framework, which do support the expansion of existing businesses in the countryside and rural tourism/economic development.*

7. Policy EMP9 of the Local Plan is clearly relevant to the appeal proposal, as it relates to the expansion of existing business uses outside development limits. There are a number of provisos in that policy, including the effect on the character and appearance of the area and the relationship to existing development. The proposal would project into an open field and would not reflect the existing field pattern. I also saw that elements of development of the wider farm were apparent from the surrounding area. On that basis, the Council's concerns in respect of character and appearance are not so without foundation as to represent unreasonable behaviour, and the support for the proposal given by policy EMP9 is not as unqualified as contended by the appellant. Nevertheless, the Council should have explicitly considered this policy and the weight to be given to it as part of its assessment of the proposal. Failure to do so represents unreasonable behaviour, and the appellant has been put to extra time and expense to address policy EMP9.
8. The Framework is also supportive of the sustainable diversification of land based rural businesses as well as rural tourism. Although the Council refers to policy SP13 of the Core Strategy which reflects the relevant policies of the Framework, it has not been demonstrated that this policy was considered with sufficient rigour. Failure to do so represents unreasonable behaviour, and the appellant has been put to extra time and expense to address the Framework on this issue as well as policy SP13.
9. **Ground 3:** *The LPA failed to apply the presumption in favour of sustainable development and to determine the application in accordance with the Framework in the absence of a relevant development plan policy relating to static caravans.*
10. The development proposal falls within the remit of policies EMP9 and SP13. Whilst these policies may not specifically refer to static caravans, they clearly relate to development of the type proposed. These development plan policies also reflect the policies of the Framework in respect of my assessment of the proposal. I have concluded that policy SP2 is overly-restrictive in respect of the proposal and does not reflect the Framework, however this is only one of the policies relevant to the appeal and its lack of compliance with the Framework is easily addressed.
11. There are therefore a number of policies of the development plan which relate to the appeal proposal. On balance, I consider that the group of policies of the development plan which are most important in my determination of this appeal are not out of date. On that basis, the presumption in favour of sustainable development in paragraph 11(d) of the Framework is not engaged. The Council has therefore not behaved unreasonably on this ground of the appellant's claim.
12. **Ground 4:** *The LPA failed to give adequate weight to its own Tourism Officer or to other letters of support from local people and local businesses.*
13. The Council has referred to the comments of the Tourism Officer and the supporting comments in the Officer's report and notes the level of support. Whilst the appellant may consider that these were not given sufficient weight, this is a matter of planning judgement. The Officer's report has correctly noted the degree of support as part of the assessment of the proposal, and I do not consider that the Council has behaved unreasonably on this matter.

14. **Ground 5:** *The LPA failed to have regard to the Written Ministerial Statement¹ (WMS), the impact of tourist economy as a result of Covid-19 or the significant economic benefits of the proposal.*
15. The WMS in respect of caravan and holiday parks relates to the enforcement and variation of planning conditions in respect of the holiday season. The provisions of the WMS are therefore not directly relevant to this appeal which relates to the physical extension of a site. The Council has therefore not behaved unreasonably with regard to the WMS.
16. With regard to the impacts of Covid-19, these are likely to be of a temporary nature, whilst the proposal would remain on a permanent basis. Given the scope of the WMS and the nature of the proposal, I do not consider that the Council has behaved unreasonably in respect of the lack of reference to Covid-19. The Council has also set out what it considers to be the benefits of the proposal and I do not consider that the consideration of those benefits was fundamentally inadequate.
17. **Ground 6:** *The LPA's reasons for refusal are contradictory, stating the scale is too small to be of any economic benefit yet so big it harms the character and appearance of the countryside.*
18. The consideration of scale in respect of economic benefits compared to the effect on character and appearance are contextually different. This is a matter of planning judgement, and the Council has not behaved unreasonably in its consideration of these issues, or the weight it has given to them.
19. **Ground 7:** *The LPA's decision is inconsistent with other decisions made on holiday and caravan sites in the district.*
20. In respect of the site at Hollicars, this site is of a significantly greater scale than the existing and proposed tourism related uses at the appeal site. The balancing considerations in respect of matters of character and appearance as well as the economic benefits are therefore materially different to the appeal proposal.
21. In respect of the site at Gateforth, this was located on the edge of an existing settlement in comparison to the more remote location of the appeal site. Notwithstanding the comparative levels of services in each village, I do not consider that the appeal site provides as convenient a degree of access to services in Skipwith as contended by the appellant. Whilst the site at Gateforth may be more visible, it was described as being of neither agricultural or residential in character and was of a transitional appearance, which suggests it is of a distinctly different character compared to the open agricultural field of the appeal proposal. Furthermore, the proposal at Gateforth was also of a greater scale, including a number of camping pitches as well as static caravans. Even then, the Council considered that the Gateforth scheme would make only a modest contribution to the local economy.
22. The proposals referred to by the appellant are therefore materially different to this appeal. Based on the evidence before me, the Council's considerations of the planning merits of these schemes is not so inconsistent as to represent unreasonable behaviour.

¹ by the Secretary of State for the Ministry of Housing, Communities and Local Government made on 14 July 2020

23. **Ground 8:** *The LPA advised the 3 static caravans would be acceptable if sited elsewhere on the Field House Farm site, which suggests reason 1 of the refusal notice was not a genuine concern.*
24. There is no formal decision before me which confirms that the appellant's submission on this issue is correct. Informal comments made as part of discussions at the pre-application stage or during the assessment of the scheme are without prejudice to the Council's final decision. I therefore do not consider that the Council has behaved unreasonably on this matter. Whilst I have disagreed with the Council's decision, I do not consider that its reasons for refusal are so without foundation as to represent unreasonable behaviour.
25. **Ground 9:** *The visual impact of 3 caravans could easily be mitigated by the use of appropriate conditions for additional landscaping.*
26. I have also concluded that any harm arising from the projection of the development into an open field can be mitigated through a condition requiring the submission of a landscaping scheme. However, mindful of the arbitrary boundary of the proposed development, I do not consider that the Council's concerns on this matter are as nonsensical as contended by the appellant. The Council's concerns on this matter are therefore not so without foundation as to represent unreasonable behaviour.
27. **Ground 10:** *There is no conflict with local or national policy, there would be no harm, there would be lots of benefits, there are no objections (other than from the Planning Officer) and there is significant support. The application should have been approved without delay.*
28. I have concluded that the proposal would conflict with policy SP2A(c) of the Core Strategy. Subject to consideration of character and appearance, it could also be concluded that the proposal would conflict with policy EMP9. Even allowing for the letters of support, I do not consider that the benefits from the proposed 3 static caravans are as significant as contended by the appellant. The Council's overall assessment of the proposal therefore does not represent unreasonable behaviour.

Conclusion

29. Drawing the above together, whilst I have allowed the appeal, I do not consider that the Council's consideration of this proposal was so flawed as to prevent or delay development which should clearly be permitted. This has therefore not led to an appeal which could otherwise have been avoided.
30. Nevertheless, I conclude that the Council has behaved unreasonably in respect of Grounds 1 and 2; more specifically in respect of the consideration of policies RT12, EMP9 and SP13. The appellant has been put to extra time and expense in respect of the consideration of these policies as part of the appeal process.

Costs Order

31. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Selby District Council shall pay to Ms Wendy Tomlinson, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of Grounds 1 and 2, and specifically in respect of addressing

policies RT12 and EMP9 of the Local Plan as well as policy SP13 of the Core Strategy; such costs to be assessed in the Senior Courts Costs Office if not agreed.

32. The applicant is now invited to submit to Selby District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Cross

INSPECTOR