



Costs Decision

Site visit made on 7 June 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2021

Costs application in relation to Appeal Ref: APP/P0430/W/21/3266409 Bledlow Ridge Household Recycling Centre, Wigans Lane, Bledlow Ridge HP14 4BH

- 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 Bledlow Ridge HRC CIC for a full award of costs against Buckinghamshire County Council.
 - The appeal was against the refusal of planning permission for Proposed continuation of the use of the land as a Household Waste Recycling Site as currently consented by planning permission no. CC/3/83
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Awards can be based on either procedural or substantive matters.
3. The original application was due to be presented to the Planning Committee in April 2020 with a positive recommendation, however, this was postponed due to the outbreak of Covid. Subsequent to this, the Council sought legal advice in relation to the proposal but failed to take the scheme to future committee meetings. In addition, there was a change in case officer, a matter which based on the evidence before me, was not communicated to the appellant, and which appears to have caused further delay. Following correspondence, the parties agreed an extension to the determination period until the end of 2020, however, again, this date was not met with further legal advice being sought.
4. In light of the above therefore, procedurally, it is the appellant's case that there was a lack of compliance and co-operation from the Council with the requirements of the application and appeal process, and that there was a delay in providing information. Additionally, it is suggested that the Council deliberately concealed relevant evidence, that fresh and substantial evidence was introduced at a late stage in the process, and that the Council did not work proactively and positively. Finally, it is suggested that changing the originally positive recommendation in the officer report to the suggested refusal in the Council's 'position statement' represents a lack of professional behaviour by the

Council that has resulted in a significant level of extra expense for preparatory work.

5. It is suggested by the appellant that the 'position statement' was produced under pressure from local residents. There is also conjecture around the template used for the report, as well as its title. As a consequence, the appellant asserts that the position statement has no status, and that it cannot be taken into account. Despite these views, it is not for the appellant to determine this matter, and in my judgement, regardless of the origins of the document, it ably substantiates the Council's case. Accordingly, there is no reason why the document should not form part of my assessment of the appeal. Moreover, I see no reason why the Council would not wish to produce such a document in light of an appeal due to their failure to determine the original application. That it shifts the recommendation to one less favourable to the appellant would understandably frustrate them. However, this in itself does not demonstrate unreasonable behaviour, nor does the fact that it has been presented on a so-called unfamiliar template.
6. Appealing due to non-determination carries inherent risk in terms of responding to the case presented by the Council and although the frustration from the appellant is understandable, I find nothing in the evidence before me that procedurally, the Council has acted unreasonably. Instead, in my judgement, they have simply put forward a case to defend the appeal and although this may not have been in the manner expected by the appellant, this does not imply unreasonable behaviour.
7. On a substantive basis, the appellant asserts that the proposal was assessed by the Council in an incorrect manner due to their reference to the previous use having been abandoned or reverting to a 'nil' use. The appellant also states that by not sharing legal advice, the Council have not provided evidence to substantiate their position.
8. As identified in my decision, I do not agree with the Council that the proposal would harm the character and appearance of the area. I am also satisfied that the proposal would have a neutral effect on biodiversity. The Council is under no obligation to share legal advice, but based on the evidence before me, I have no reason to doubt that planning permission is necessary. When assessing the proposal against the development plan, as required by Section 38(6) of the Planning and Compulsory Purchase Act (2004), my decision is clear that the material considerations in the case did not indicate a decision contrary to the development plan. Accordingly, I find that the Council has not prevented development which should clearly be permitted.
9. Consequently, for the reasons identified above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Martin Chandler

INSPECTOR