The Planning Inspectorate

Costs Decision

Site visit made on 16 August 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2021

Costs application in relation to Appeal Ref: APP/C1435/W/20/3265476
Deanland Wood Park Ltd, Deanland Road, Golden Cross, Chiddingly BN27 3RN

- 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 Mr John Sargeant of Deanland Wood Park Ltd for a full award of costs against Wealden District Council.
- The appeal was against the refusal of planning permission for change of use of land at existing retirement park to site 105 additional park home caravans for people over 50 years old, together with associated footpaths, roads, car parking, tree planting, landscaping, amenity and wildlife areas, two tennis courts, drainage ditches, SUDS and wildlife ponds, and a new health club with indoor pool, changing rooms and a small gym, and provision of a 24-hour on-call carer service.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.

3. Planning permission was refused against professional advice. This in itself does not constitute unreasonable behaviour. Members are not bound to accept the recommendations of their officers. An award of costs would only be warranted where the Council cannot produce relevant evidence to show that there were reasonable planning grounds for taking a contrary view.

4. The proposal is in clear conflict with the spatial strategy set out within the Wealden Core Strategy Local Plan. Consequently, a decision to approve the application would need to be justified by other material considerations. The Council has already granted permission for a further 26 park homes at Deanland Wood Park. However, that development will be substantially smaller than the appeal scheme and it is not directly comparable in terms of the number of vehicle movements generated. There is no dispute that the proposal would lead to additional use of the private car; the parties disagree on whether that car usage is likely to be significant or harmful in overall terms. The Planning Committee was entitled to reach its own view this particular point, having regard to the technical information presented.

5. The appellant cites an appeal decision[1] for a park home site at nearby Golden Cross. However, that case related to a much smaller number of mobile homes which were already in use for tourist accommodation. The potential to use services and facilities at Deanland Wood Park was one relevant factor the Inspector took into account, but the decision also makes reference to a convenience store within a nearby petrol station and the availability of an hourly bus service to Hailsham. The circumstances were not so similar as to set a precedent which the Committee needed to follow.

6. The application is accompanied by a Landscape and Visual Appraisal which concludes that the impacts would be localised. Such matters are subjective and rely upon the exercise of judgement. Members were therefore entitled to make their own assessment. The appeal site is considerably larger than the permitted site for 26 units, with the potential for more significant landscape and visual impacts, and therefore it does not follow that the proposal was acceptable, simply because the earlier scheme was approved.

7. The fact that my planning decision finds in favour of the appellant does not automatically mean that an award of costs is warranted. The Council's reason for refusal is clear, precise and policy based. Furthermore, it makes reference to the main planning considerations, including the benefits of the proposal in providing housing, enabling the delivery of affordable homes and sustaining existing facilities on the Deanland Wood Park site. The parties differ in their assessment of the impacts and in the weight given to the various factors. This led to a different outcome when paragraph 11 d) of the National Planning Policy Framework was applied.

8. The PPG explains that planning authorities are at risk of an award of costs against them if they prevent or delay development which should clearly be permitted having regard to the development plan, national policy statements and any other material considerations. That is not the situation here. The appellant argues that the application should have been approved, bearing in mind the recommendation for approval by officers. However, the Council's case was an arguable one and its reasons for refusing permission were properly substantiated.

9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Robert Parker

INSPECTOR

[1] APP/C1435/W/19/3237487