



Costs Decision

Site visit made on 17 August 2021

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Costs application in relation to Appeal Ref: APP/N1730/W/21/3273529 Land South of Eversley Road and East of Marsh Lane, Eversley Cross, Hook RG27 0NQ

- 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 Philip Scott on behalf of Obsidian Strategic Asset Management Limited for a full award of costs against Hart District Council.
 - The appeal was against the refusal of planning permission for the change of use from agricultural land to deliver 16.0 hectares of public open space and habitat land with associated landscaping including a circular walkway, hedge planting and boundary works, new access works, cycle and car parking, height restrictor barrier, interpretation point, benches and bins to facilitate a Suitable Alternative Natural Greenspace (SANG).
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Decision

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

Reasons

2. The Planning Practice 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.
3. The applicant states that the officer report contradicts written advice provided by internal Council departments, namely the Council's Countryside Manager and Policy department. The reasons for refusal refer to the effectiveness of planning policies which is not a term found in the National Planning Policy Framework (the Framework) or PPG. The reasons for refusal refer to financial matters on the open space which were irrelevant. Reference was also made to habitats and the need for an appropriate assessment which were irrelevant. The reasons for refusal include matters which were not raised during the determination process. The Council failed to balance and give weight where necessary. The officer report and decision making fails to conform with advice in paragraphs 11 and 18 of the Framework.
4. The applicant's rebuttal indicates that they were not given the opportunity to discuss concerns prior to the committee meeting. There was no mention of the sustainability concerns. Natural England provided pre-application advice and the Council were invited to participate. The matters were not properly raised in the 6 months process
5. The Council respond that the weight given to each of the material considerations is not unreasonable behaviour. Furthermore, there were

conflicts with the planning policy. The advice was initial feedback only and was not contradictory. The need for an appropriate assessment was not stated as a requirement and the impacts have been misunderstood. The accessibility was a necessary consideration. No pre-application advice was sought.

6. The Council's stance was based on its assessment of the relevant development plan policies and those within the Framework. It did not consider that the weight to be afforded to the failure to comply with the development plan was outweighed by other material considerations. Although I did come to a contrary conclusion on the acceptability of the proposal, I nevertheless found the proposal to be contrary to Local Plan Policy NBE1.
7. The accessibility of the site to the local population is not an exact science rather it is open to a judgement based on the pedestrian environment and nature of the nearby housing. Similarly, the loss of agricultural land was open to judgement in terms of the significance of its grade, how well it is used and whether there is an overriding need.
8. Additionally, the proposal required a balance of the benefits and harm. Such a balancing process and the weighting of each aspect is down to the remit of the decision makers as made clear by the Courts.
9. The Countryside Manager and Policy department's comments represented the views of those officers and were weighed up in the overall balance in the case officer's report. The individual officers were entitled to their views and there is no guarantee of the eventual decision as the issues have to be weighed up.
10. The financial implications were explained in their potential to derail the SANG strategy and the implications for the SPA. As such that was a material consideration, even though my conclusion was different from the Council. Whilst the protection of the SPA informed the context of the appeal, the Council did not suggest that an appropriate assessment was required, it referred to paragraphs 179-181 in the context of the impact of the proposed development on other SANGs.
11. Whilst the communication between the parties does not appear to have been ideal that may have been a reflection of the national situation. In any event I do not believe that further discussions would have led to a different decision or the process amounted to unreasonable behaviour.
12. For the above reasons I conclude that the Council has not acted unreasonably, and that the applicant has not been put to wasted time and expense in pursuing the appeal. Therefore, an award of costs as described in the Planning Practice Guidance is not justified.

John Longmuir

INSPECTOR