



Costs Decision

Site visit made on 13 June 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 July 2022

Costs application in relation to Appeal Ref: APP/X0415/W/21/3280021 The Blue Ball, Asheridge Road, Asheridge HP5 2UX

- 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 Carl Slaughter for a partial award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of planning permission for change of use of land to seasonal caravan site for 5 caravans on gravelled pitches, creation of an access track, and conversion of stable to a facility building and 5 grassland pitches for caravans.
-

Decision

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

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant states that the Council behaved unreasonably during the planning application process, in particular through failure to substantiate its concerns for the visual impact of the proposal, which informed reasons for refusal 1 and 2, and failure to adhere to consultee advice in respect of reason for refusal 3. The applicant states that the former led to the need to produce extensive evidence to refute the Council's claims.
4. The Council's first reason for refusal relates to Green Belt harm and I do not find that this reason for refusal related entirely to visual harm. As my appeal decision describes, visual impact is only one factor when considering openness. The Council's officer report assesses the proposal against the appropriate Green Belt policies of the National Planning Policy Framework (the Framework) and takes into account both the permanent and transient attributes associated with the change of use, and describes the open nature of the existing site. I do not consider that the Council failed to properly evaluate the application in this regard.
5. With regard to the issue of visual impact, the parties agree that there would some visual impact of the proposed development. The Council's officer report is brief in describing the areas from which the proposal would be visible. At paragraph 10.6 it describes that the site would be noticeable from the adjacent public footpaths, the rear of the adjacent houses and their rear gardens, and

from the public house. While this lacks further detail, in my opinion it makes clear that its concerns relate to viewpoints near the site and only those footpaths immediately adjacent. As this formed part of the officer's report, to which the appeal responded, I do not consider that it resulted in the need for a more extensive visual impact assessment.

6. The officer initially visited the site in the winter months, when the site was more likely to be visible from the surrounding area due to the lack of foliage. The Council's appeal statement focuses on the views from the public footpath which runs alongside the car park (footpath CRT/44/6) and includes photographs which show that views were possible from that footpath onto the appeal site. Those photographs show that a low hedge and low level post and rail fencing formed the boundary to the car park, which allowed visibility onto the site. This has since been replaced with taller close boarded timber fencing which does not provide views through, and a mobile home has now been positioned against this boundary. As there was clearly greater visibility of the appeal site from that footpath at the time of the Council's assessment, I do not find its conclusions at the time to have been unreasonable.
7. The extent of harm to those views is a matter of judgement for the decision maker. While I have disagreed with the Council about the extent of the visual harm, overall I do not find its approach unreasonable.
8. While the applicant would have been frustrated with the Council's refusal to share full details of their concerns prior to the determination of the application, as the information was available prior to the appeal, I do not find this to constitute unreasonable behaviour.
9. For the above reasons I do not consider that the Council behaved unreasonably nor that the applicant incurred unnecessary expense in the appeal process as a result of the Council's behaviour in respect reasons for refusal 1 and 2.
10. With regard to reason for refusal 3, while the Council's view was not entirely consistent with the views of the Environmental Health Officer, whether the matter could sufficiently be addressed by a planning condition was ultimately a judgement for the decision maker. The Council's officer report explains the reason why such a condition was not considered appropriate, and I do not find that the Council acted unreasonably in this respect.
11. In addition, I note there is dispute regarding the application of Policy T4 of the Chiltern District Local Plan 1997 (including alterations 2001 and consolidated 2007 and 2009). The policy supports proposals for touring caravan sites provided the criteria given are met, of which one relates to the purposes of the Green Belt. I do not agree that the policy implies that the transient and periodic impact of the caravans is not harmful to the Green Belt.

Conclusion

12. For the reasons given, I find that the Council did not behave unreasonably, nor was the expense of the appeal unnecessary or wasted. Consequently, the application for costs is refused.

C Shearing

INSPECTOR