The Planning Inspectorate

Costs Decision

Site visit made on 2 November 2022

by Hannah Guest BSc (Hons) MA MRTPI

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

Decision date: 13 December 2022

Costs application in relation to Appeal Ref: APP/A3655/W/22/3290781
Blanchards Hill Farm, Blanchards Hill, Sutton Park, Sutton Green, Guildford

- 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 Miss Sophie Bankes for a full award of costs against Woking Borough Council.
- The appeal was against the refusal of planning permission for part change of use of storage barn and land to south to include Class E(d) (indoor sport) and F2(c) (outdoor sport) creation of associated parking.

Decision

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

Reasons

2. Paragraph 030 of the 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 considers that the need for an appeal could have been avoided and submits that the Council has acted unreasonably for several reasons, I deal with these in turn below.

4. It is the applicant's view that the development should have been permitted and that the Council did not have regard to the clear support from national and local planning policy, and that they were wrong to conclude that the proposal failed the sequential test set out at paragraph 87 of the National Planning Policy Framework (the Framework). Also, that the Council did not consider the health benefits of the proposal.

5. Although as part of my determination of the appeal I conclude the proposal to be supported by some national and local planning policy and consider that the sequential test, in this case, should not be applied, this is a matter of judgement, and it is not unreasonable for the Council to come to a different conclusion. The decision notice clearly sets out which policies the proposal would conflict with, which are adequately substantiated by the Council in its Officer Report. Compliance with other policies does not mean the development should clearly be permitted. Furthermore, the reason for refusal relating to the location of the proposal is detailed and clearly refers to more than just the proposal's failure to meet the sequential test. Therefore, even if the failure of

the proposal to meet the sequential test had been disregarded, this reason for refusal would not have been avoided. While I acknowledge there is no assessment of the health benefits of the proposal in the Officer's Report, from the evidence before me, it does not appear that these benefits had been clearly identified in the evidence supporting the application. Notwithstanding the lack of a clear assessment of the benefits of the proposal in the Officer's Report, given the fundamental reasons that the application was being refused, I consider that an appeal could not have been avoided.

6. The applicant also considers that the Council's assessment of the proposal included inaccurate assertions regarding the accessibility of the proposal and the sequential test, as well as an inaccurate assessment of vehicle movements. In contrast the Officers Report includes a detailed analysis of the accessibility of the site and reasoned conclusions. As mentioned above, it was not unreasonable for the Council to come to a different conclusion on the application of the sequential test. Also, while there was no substantive evidence regarding vehicle movements at the site, the Council's assessment of the proposed vehicle movements is based on the applicant's evidence, the Council's observations, and the comments of statutory consultees. Accordingly, although the evidence may be limited, the Council did not fail to properly evaluate the application before it.

7. The applicant states that it was unreasonable of the Council to confirm via email that concerns could not have been overcome by reducing intensity and controlling this through the use of a condition. However, the email response from the Council, dated 9th June 2021, clearly sets out their concerns regarding the proposal and why they consider this approach would not have overcome them. While I appreciate that this and the outcome of the application will have been a disappointment to the applicant, particularly following an indication from the Council that the application might be approved, the Local Planning Authority were not unreasonable in coming to that decision. Indeed, following consideration of the application on its merits alone, I have concurred with the Council.

8. Finally, the applicant considers that the Council acted unreasonably in their handling of the application in terms of the time it took for the application to be determined. I acknowledge that the application took significantly longer to determine than 8 weeks and appreciate that this would cause frustration to the applicant. However, the applicant had the opportunity to make an appeal for non-determination and chose to agree multiple extensions even after the Council had indicated that the application would be refused. Nevertheless, the timescales of the application did not result in the applicant incurring unnecessary or wasted expense in the appeal process.

9. For the reasons set out above, I conclude that it has not been demonstrated that unreasonable behaviour has resulted in an appeal which would not have otherwise been necessary. Given this is the reason for the award of costs, and having regards to all other matters raised, an award for costs is therefore not justified.

Hannah Guest INSPECTOR