



Costs Decision

Site visit made on 14 September 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th January 2023

Costs application in relation to Appeal Ref: APP/W1850/W/21/3281572 Sapey Golf Club, Upper Sapey, Worcester WR6 6XT

- 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 Preston of Wyldecrest Parks Management Limited for a full award of costs against Herefordshire Council.
 - The appeal was against the refusal of planning permission for change of use of land to caravan site for three caravans.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance 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. The application for costs is predicated on the claim that the local planning authority has refused permission for development which should clearly have been permitted and that this has resulted in an unnecessary appeal.
4. The Council's principal objection to the scheme was that the structures on site did not fall within the definition of a 'caravan' set out within the Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968. However, the officer at the hearing was satisfied that the units known as 'Saunton' and 'Porthcawl' were indeed caravans. The concerns related solely to the unit known as 'Carnoustie' and more specifically the spiral staircase and roof terrace which had been added after that twin-unit structure had been brought onto the site.
5. This was a key point of dispute and therefore I dealt with it in my decision, concluding that the unit does not constitute a caravan within the statutory definitions. However, the reality is that the description of development on the application form is for a change of use of the land to a caravan site. The caravans themselves do not require planning permission and therefore it was perfectly possible for the case officer to consider the merits of the change of use without needing to address the caravans themselves. I can understand the difficulty; there were units already on site and one of those raised concerns in respect of its spiral staircase and roof terrace. However, the fact remains that the Council has enforcement powers to deal with the scenario of a structure other than a caravan being placed on a permitted caravan site.

6. The Council raised additional concerns in respect of ecology and drainage. It is difficult to view these as concerns in principle and it was more a matter of whether sufficient information had been submitted.
7. Protected species surveys would normally be required prior to any grant of permission. However, that was not possible in this case as development had already taken place. The Council has not provided any evidence to indicate the likely presence of protected species and therefore it has failed to demonstrate material harm to biodiversity interests.
8. The drainage concerns were no more than a makeweight refusal reason. The units have been on site for up to four years without any evidence of flooding or other problems. I accept that there may feasibly be issues with the detail of the drainage arrangements, but there is nothing to suggest that these could not be resolved. Such matters could be addressed by condition yet the Council has not given any substantive explanation as to why this option was not considered.
9. Crucially, the Council does not offer any evidence to demonstrate that the principle of a caravan site for three caravans is unacceptable. Its concerns relate to matters of detail which can either be addressed by conditions or, in the case of 'Carnoustie', through enforcement powers. Although I can appreciate that this is a controversial site with a complex planning history, the issues for the application were relatively straightforward. The Council has refused planning permission without proper justification and therefore the appeal was unnecessary. Unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has been demonstrated.
10. This scenario would ordinarily necessitate a full award of costs. However, I am mindful that some additional costs will have been incurred because the Planning Inspectorate changed the procedure to a hearing. The parties were of the view that written representations would suffice. I consider that it would be unfair to require the Council to bear the appellant's costs of attending the hearing itself. Nonetheless, it would be appropriate for the authority to reimburse those costs incurred in preparing written evidence for the appeal and attendance at the site visit. Accordingly, I find that a partial award of costs is justified.

Costs Order

11. In the exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Herefordshire Council shall pay to Mr John Preston of Wyldecrest Parks Management Limited, the costs of appeal proceedings described in the heading of this decision, limited to those costs incurred in preparing written evidence for the appeal and attendance at the site visit. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Herefordshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Robert Parker

INSPECTOR