
Costs Decision

Site visit made on 6 January 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Costs application in relation to Appeal Ref: APP/X0360/W/22/3290427 Land rear of 182 Hyde End Road, Spencers Wood RG7 1DG

- 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 JGB Construction Ltd for a full award of costs against Wokingham Borough Council.
 - The appeal was against the refusal of planning permission for change of use of land for outside storage together with the erection of acoustic fencing and landscaping in association with an existing business.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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. In essence, the costs application is that it was unreasonable for the Council to refuse planning permission for the two reasons for refusal (RfR) set out in the decision notice. This is because each RfR contrasted with comments made by professionally qualified Council officers in response to information prepared on behalf of the applicant by suitably qualified professionals. Accordingly, that planning permission should have been granted so the appeal and related costs were not necessary.
4. The Council was given the opportunity to comment on the costs application. I have taken comments received into account in my decision.
5. PPG states that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs.
6. The Council's landscape officer recommended approval of the planning application¹. However, this officer's comments relate to existing and proposed planting (and fences) relative to the impact of the proposal on the landscape. This is also borne out by this officer's reference only to LP policy CC03 e) which requires high quality planting and landscaping as an integral part of a scheme. In these regards, and albeit without the benefit of a site visit, the landscape officer agreed that the appellant's landscape design strategy and masterplan

¹ Memorandum 28 August 2021

were acceptable. In my appeal decision I have reached a different conclusion to the Council's planning officer on planting and landscape.

7. But RfR1 is also about the effect of the proposal on the built environment and there is no evidence that this was in the landscape officer's remit. While I have also reached different conclusions to the planning officer in this respect, thus with the Council and RfR1 overall, my appeal decision should not be taken as vindication of this aspect of the costs application.
8. The planning officer was required to assimilate a wider range of considerations than the landscape officer. In so doing this officer was entitled to make planning judgements on the holistic question of character and appearance of the area. Planting and landscape was but one facet of this. I am satisfied that the information available to the planning officer was adequate for this purpose, which was also informed by a site visit.
9. The Council's environmental health officer ultimately recommended approval of the planning application². This was subject to a condition to ensure that the proposed noise mitigation measures were implemented. However, this officer plainly considered that the appellant's environmental noise report was not clear or transparent about the predicted level of noise that would be generated by the proposed storage area on the appeal site itself. I agree, for the reasons set out in my appeal decision.
10. Consequently, in my view and with due respect, this officer's advice — that it was 'unlikely' that noise generated by the proposed new storage area would be 'markedly different' from the existing noise environment in the yard — was given without a complete understanding of a relevant noise measure or assessment and lacked sufficient precision. As will be evident from my appeal decision, it would not be appropriate to grant planning permission in these circumstances. My conclusion in this respect is consistent with the position taken by the planning officer with regard to RfR2.
11. Taking all of the above into account, I am satisfied that the Council properly exercised its development management responsibilities and determined the application in a reasonable manner.
12. These circumstances have led the applicant to decide to pursue the matter through the appeal process. The PPG sets out that parties in planning appeals normally meet their own expenses, including in this case the appellant's additional evidence on noise³.

Conclusion

13. For the reasons given above, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense in the appeal process, as described in PPG, has not been demonstrated. A full award of costs is not therefore justified, nor is a partial award for the same reasons.

Robin Buchanan

INSPECTOR

² Memorandum 6 September 2021

³ Technical Note 17 December 2021