



Costs Decision

Site visit made on 30 March 2023

by Sarah Dyer BA BTP MRTPI MCM

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Costs application in relation to:

Appeal A Ref: APP/U2805/W/21/3258705

Oakley Park, Ashley Road, Middleton, Leicestershire LE16 8YP

Appeal B Ref: APP/U2805/W/21/3270912

Land south of Oakley Park, Ashley Road, Middleton, Leicestershire LE16 8YP

- 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 T and Mr M Doran for a full award of costs against Corby Borough Council.
 - The appeals were against the refusal of planning permission for the material change of use of land to residential caravan sites providing 4 No. Gypsy pitches (Appeal A) and 6 No. Gypsy pitches (Appeal B) respectively.
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Decision

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

Background

2. Parties in planning appeals normally meet their own expenses. However, the 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.

Reasons

3. The appellants consider that the Council has acted unreasonably in preventing or delaying development which should have been permitted and that it failed to review its case promptly following the lodging of their appeals. These are both matters which the PPG identifies as having the potential to give rise to an award of costs against a local planning authority.
4. In relation to Appeal A Council Officers recommended that the planning application be approved but the Planning Committee did not agree with this recommendation and determined that the application should be refused. The Council did not act unreasonably in this respect because it provided reasons for its decision. The same applies in respect of the Appeal B scheme which was recommended for refusal.
5. The Council produced a conjoined appeal statement in respect of Appeal A and Appeal B. In its statement the Council makes it clear that it no longer sought to defend its reasons for refusal relating to the proximity of the sewage works or foul and surface water drainage. This is evidence that the Council did review its

- case when the appeals were submitted, and this is accepted by the appellants in their application for costs.
6. However, having reviewed their position the Council provided evidence in respect of its other reasons for refusal. These concerned highway safety and capacity in relation to the Appeal A and Appeal B schemes, the impact on the character and appearance of the surrounding area in respect of the Appeal A scheme and the effect on the nearest settled community at Middleton of the Appeal B scheme. This evidence was available to the Hearing which opened in July 2022.
 7. On the basis the evidence available to the Hearing there is nothing to indicate at that stage that the Council was acting unreasonably in preventing or delaying development which should have been permitted.
 8. The reasons for the adjournment of the hearing were not related to the failure of the Council to substantiate its reasons for refusal. However, as a consequence of information provided by the appellants following the adjournment the Council reviewed its position a second time.
 9. The key information which was provided in relation to the reasons for refusal by the Council were the Transport and Highways Written Representations by the Transportation Consultancy (the Transportation Study). The Council says in its response to the applications for costs that as a result of the Transportation Study it was able to conclude that the development would provide safe access and that it would not have an adverse cumulative impact on the highway network.
 10. The Council says that it was the acceptability of the Transportation Study and the ecological information provided by the appellants which addressed issues raised by interested parties which led it to reconsider its position.
 11. The Transportation Study was submitted in October 2022, but the Council did not advise the Planning Inspectorate of its decision not to defend the appeals until January 2023. This delayed the progress of the determination of the appeals and the length of time it took for the Council to review its position could be regarded as excessive, even taking the involvement of Counsel into account. However, given the overall timescale of the submission of information after the adjournment of the Hearing, I do not find the Council's actions in this regard to be unreasonable.
 12. For the reasons set out above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Sarah Dyer

Inspector