



Costs Decision

Site visit made on 4 April 2023

by S Leonard BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2023

Costs application in relation to Appeal Ref: APP/Y9507/W/22/3298808 Broad View Farm, Blacknest Road, Binsted, Alton GU34 4PX

- 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 Cullen for a full award of costs against South Downs National Park Authority.
 - The appeal was against the refusal of planning permission for change of use of agricultural land to glamping site to include 6 timber framed glamping tents for holiday accommodation all year round, with associated parking.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking a full award of costs on both substantive and procedural grounds.
4. The Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a substantive award of costs include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; refusing planning permission on a planning ground capable of being dealt with by conditions; and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. The applicant's view is that the Council's refusal of planning permission was unreasoned and unjustified. It considers that the Council has not applied reasonable planning judgement, has failed to substantiate the reasons for refusal, having regard to relevant development plan policies and responses

- received from consultees, and failed to consider imposing conditions that could have overcome the Council's objections.
6. I find that the Council's reasons for refusal, as set out in the decision notice, to be complete, precise, specific and relevant to the application and to clearly state which development plan policies the proposal would be in conflict with.
 7. I also find that the reasons for refusal have been adequately substantiated, having regard to national and local planning policy, within the planning officer's committee report, the planning committee minutes and the Council's appeal statement, including taking account of the existing landscape quality of the site and the appellant's proposed biodiversity enhancements and other benefits that would result from the proposal.
 8. Moreover, my Appeal Decision, which accompanies this Costs Decision, confirms that I have dismissed the appeal, and why I find that the Council was justified in refusing the application, and also in not dealing with the matter of foul drainage, the subject of the second reason for refusal by means of a condition.
 9. Accordingly, and having regard to the accompanying Appeal Decision, I find that the Council was entitled to defend the appeal and has not acted unreasonably in so doing. I have found that the appeal scheme does not accord with the development plan and national policy, and that there are no material considerations that outweigh this conflict. As such, the appeal could not have been avoided.
 10. The applicant is seeking costs on procedural grounds in respect of the Council's actions during the determination of the planning application, particularly in regard to how the planning officer considered the responses made by the landscape, ecology, policy and drainage officers, and the failure of the planning officer to engage pro-actively with the applicant to enable the resolution of matters of concern. The applicant contends that these actions have resulted in the applicant having to pursue an unnecessary appeal.
 11. The Guidance confirms that, although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded. The guidance also states that all parties are expected to behave reasonably throughout the planning process and that the Planning Inspectorate will take all evidence into account, alongside any extenuating circumstances.
 12. I appreciate that the communication process with the Council during the course of the determination of the application has caused the applicant some concern, and that the outcome of the application will have been a disappointment to the applicant. However, I find nothing to suggest that a decision was not reached on the merits of the proposal, as submitted by the applicant.
 13. In coming to a recommendation and decision, planning officers and planning committee Members are not bound to agree with the views of other council consultees, so long as a reasonable case can be put forward to the contrary. Moreover, in this instance, I note that the decision to refuse was taken following site visits by both the case officer and planning committee members.

14. I note that the planning officer did accept some additional information submitted by the applicant during the application process, which was taken into account within the committee report. Furthermore, I do not find that the Council acted unreasonably by not accepting the amended, 4-unit scheme, since this involved a significant change to the proposal, which to my mind, would involve re-consultation and delay to the determination of the application.
15. As such, I do not find that the Council acted unreasonably having regard to procedural matters during the course of the planning application process. In coming to this view, I am mindful that the applicant did not seek pre-application advice from the Council, as advocated in the *National Planning Policy Framework 2021*.
16. Moreover, I find that the Council acted reasonably in referring the application to the Planning Committee, having regard to the site history and previous Member involvement, so that the delay in determination arising from this process was not unreasonable.
17. Having regard to the above, I find that the Council was entitled to refuse the application and defend the appeal and has not acted unreasonably in so doing.
18. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Leonard

INSPECTOR