



Costs Decision

Hearing held on 25 July 2023

Site visit made on 25 July 2023

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2023

Costs application in relation to Appeal Ref: APP/V0510/W/23/3317675 Land at Cambridge Road, Stretham, Cambridgeshire, CB6 3LW

- 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 Long Term Land Limited for a full award of costs against East Cambridgeshire District Council.
 - The appeal was against the refusal of planning permission for erection of up to 19 Affordable Homes with associated access, parking and landscaping.
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Decision

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

The submissions for Long Term Land Limited

2. The costs application was submitted in writing, with the rebuttal to the Council's response given orally at the hearing.

The response by East Cambridgeshire District Council

3. The response was made in writing.

Reasons

4. 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.
5. The PPG also makes it clear that a local planning authority (LPA) is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
6. The applicant has put forward 6 reasons why it feels that costs should be awarded in relation to the first reason for refusal. Fundamentally whether the Council was unreasonable in its approach to noise, in particular following the submission of additional clarification as part of the appeal.
7. Therefore, a key issue is whether the Council have provided sufficient evidence to substantiate their reasons for refusal at appeal. The two reasons for refusal as set out in the decision notice are complete, precise, specific and were relevant to the application. They also clearly state the policies that the proposal would be in conflict with.

8. In this case, the Environmental Health officer raised no objection to the proposal on the grounds of noise and disturbance and concluded that the mitigation proposed would be acceptable. The evidence that was put forward by the Council to support the reason for refusal was based on previous appeal decisions where the use of MHVR was considered unacceptable. I have found that in exercising their planning judgement the Council had reasonable concerns about the impact of the proposed development which justified its decision.
9. During the appeal, the appellant submitted further evidence to demonstrate that the Council's suggestion that it would not be possible for future occupiers to open any windows was untrue. The Council had the opportunity to review this evidence and responded to it as part of the appeal proceedings. However, the Council did not consider that this additional evidence was sufficient for it to remove its objection on noise grounds.
10. The Council has taken time to review the appellant's evidence, submitted at appeal, and responded to it. Therefore, it is clear that this matter has been fully considered and the Council decided it would continue to defend its concerns in relation to its first reason for refusal. They attended the appeal and took part fully in proceedings.
11. The applicant has also raised a concern that insufficient weight was given to the benefits of the scheme in undertaking the planning balance. The apportionment of weight is a matter for the decision maker, and I consider that the Council has not behaved unreasonably in this respect.
12. Turning to the second reason for refusal, it is a matter of judgement as to whether the development was harmful to the character and appearance of the area. The Council had regard to the illustrative plans submitted with the application and during the appeal and also on the basis of the evidence provided on noise in coming to a finding on whether the proposal would be acceptable. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme. Therefore, on this basis the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.
13. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

G Pannell

INSPECTOR