



Costs Decision

Site visit made on 17 August 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Costs application in relation to Appeal Ref: APP/W3520/W/22/3303880 Honey Pot Farm Caravan Park, Bury Road, Wortham IP22 1PW

- 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 C Feeney for a full award of costs against Mid Suffolk District Council.
 - The appeal was against the refusal of planning permission for use of land for the stationing of 23 holiday lodges and 1 lodge for site manager.
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Decision

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

Reasons

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.
3. The appellant argues that there have been no material changes in circumstances, either in respect of the site or planning policy, since the previous planning permissions were granted for the same development, and that the Council's position that the proposal should be considered as one for permanent dwellings is unreasonable as holiday use could be secured through a planning condition. Its conclusions of harm to the character and appearance of the area and residential amenity were also unreasonable as the scheme is unchanged from that previously approved. Finally, the appellant alleges that the reason for refusal relating to insufficient ecological information is unreasonable as this was not raised under previous applications and could have been dealt with by planning condition.
4. In response, the Council states that material considerations have changed since previous applications were considered, pointing to its housing land supply position and appeals where conditions restricting the occupancy of holiday accommodation have been removed. The Council adds that its second reason for refusal was formulated on the advice of its ecological consultee and having regard to its legal duties with respect to protection of biodiversity. It adds that the absence of assessment of ecological impacts under previous applications does not negate the need for them to be considered under this application.
5. As set out in my main decision, the Council's stance that the proposal should have been considered as being for permanent residential accommodation was speculative and not supported by cogent evidence. It was incumbent on the Council to assess the proposal as applied for, which it did not do. Whilst I

appreciate that the Council has seen an occupancy condition lifted in the appeal decision put to me, this is not substantive evidence of a widespread trend, or that its saved Policy RT19, which clearly sets out the expectation that occupancy conditions will be used where holiday accommodation is acceptable but residential use is not, has been found ineffective or inconsistent with the National Planning Policy Framework, a finding I did not reach myself.

6. Rather than considering the proposal as applied for, the Council instead engaged in a spurious analysis of the proposal as a housing development that was wholly inconsistent with the nature of the development applied for. This was unreasonable behaviour.
7. Moreover, even if it had valid reasons to differentiate between this proposal and the permissions granted in 2015 and 2018, the Council's evidence failed to identify material differences between the schemes to substantiate its position. Instead, the Council's reasoning in respect of specific matters of character and appearance and neighbours' living conditions was vague and generalised, with no specific harms identified or substantiated, and no genuine acknowledgement of its previous supportive conclusions in these matters, which were significant material considerations.
8. For these reasons, I find that the Council's sustained position in respect of the first reason for refusal was based on vague, generalised or inaccurate assertions, unsupported by any objective analysis. Consequently, and notwithstanding that my conclusions on the second reasons for refusal led me to an overall finding of conflict with the development plan in terms of the suitability of the site's location, the Council failed to substantiate its first reason for refusal. This amounts to unreasonable behaviour contrary to the basic guidance of the PPG and the applicant has been faced with the unnecessary expense of contesting the first reason for refusal of the appeal.
9. On protected species, it will be seen from my main decision that the evidence before me was not sufficient to fully assess the potential impact on protected species and, having regard to relevant national guidance, this was not a matter that could be left to be addressed by condition. Therefore, I have agreed with the Council's position and find no unreasonable behaviour in this respect.
10. For these reasons, I conclude that the Council has demonstrated unreasonable behaviour in respect of the first reason for refusal, resulting in wasted expense for the applicant in contesting this at appeal. A partial award of costs is therefore warranted.

Costs Order

11. In 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 Mid Suffolk District Council shall pay to Mr C Feeney the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the first reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.

K Savage

INSPECTOR