



Costs Decision

Site visit made on 5 July 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st October 2023

Costs application in relation to Appeal Ref: APP/K2420/W/23/3315336 Kyngs Golf and Country Club, Station Road, Market Bosworth CV13 0NP

- 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 Statue Homes Limited for a full award of costs against Hinckley and Bosworth Borough Council.
 - The appeal was against a refusal to grant planning permission for development of 9 holiday cabins with associated parking and landscaping.
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Decision

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

Reasons

2. 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 PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include where development is prevented or delayed where it should clearly have been 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; where vague, generalised or inaccurate assertions are made about a proposal's impact which are unsupported by any objective analysis and where similar cases are not determined in a consistent manner.
4. I agree that there is no specific requirement to demonstrate a viable need for holiday cabins within the policies referenced in the Council's decision notice. I also accept that those policies do not specify that such development must be tied to an existing use.
5. Nevertheless, without a clear tie to the reinstatement of the former golf course, whether that be through the description of the development, by condition or legal agreement, any suggested economic benefits that might accrue from its reinstatement cannot be guaranteed. This is relevant if such matters are being put forward as a material consideration, as is the case with the appellant's submission. Therefore, it is also understandable why the Council would suggest a condition to secure the reinstatement of the golf course if that is being put forward as a potential benefit.

6. Moreover, the Council's decision clearly identifies locational harm having regard to the explicit character, appearance and landscape requirements of the identified policies of the development plan. It was also made clear by the previous Inspector¹, that the location of the development was only acceptable subject to the effect on the character and appearance of the area. I concur with the Council that the proposal would conflict with the development plan in these respects. The harm identified is of overriding concern and for these reasons the proposal would not be sustainable development.
7. Therefore, I am not persuaded that an appeal would have been avoided even if the Council had not included its first reason for refusal or had engaged further with the appellant. The Council is not obliged to undertake its own detailed technical analysis or accept the findings of the appellant's submissions and it set out its reasoning within its delegated report and statement of case.
8. Furthermore, given the site-specific harm identified, I do not find that the Council was inconsistent in its approach. If the appellant was concerned about a lack of engagement or the time taken to determine the planning application, they had the option to appeal against non-determination.
9. For the reasons set out, unreasonable behaviour which has caused unnecessary expense has not clearly been demonstrated in this instance. The application for costs is therefore refused.

M Russell

INSPECTOR

¹ Last sentence of Paragraph 15 of Appeal Ref APP/K2420/W/18/3218401