



Costs Decision

Site visit made on 7 November 2023

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

**Costs application in relation to Appeal Ref: APP/J3015/W/23/3323373
Land to the east of Sandy and to the rear of 70 & 72 Sandy Lane,
Bramcote, Nottingham, Nottinghamshire NG9 3GS (Easting 451645
Northing 338494)**

- 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 Andrew Rutherford of NG8 2RJ for a full award of costs against Broxtowe Borough Council.
 - The appeal was against the refusal of the Council to grant subject to conditions planning permission for the erection of two dwellings on land off Sandy Lane, Bramcote to enable the removal and eradication of Japanese Knotweed, to create a publicly accessible woodland nature park (to be known as Bramcote Unity Park), extending across all the remaining land in the ownership of the applicant (i.e. all land within the blue line ownership area) and to bring about significant improvements in the biodiversity value of this land.
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Decision

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

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. As evident from the Council's officer delegated report and the Council's response to the appellants statement of case, the Council has substantiated its reasons for refusal. I also note that a planning balance was exercised by the Council in making their decision, which had regard to adopted development plan policy and other material considerations.
4. The various correspondence provided by the appellant demonstrates that there was exchange between the appellant/appellant's representative and the Council throughout the planning process, including at pre-application stage, and after the Council made its decision. I also consider from the evidence provided that the Council was clear in its communication and position.
5. The Council set out in the officer's report and appeal representation what weight it attributed to the various public benefits and that, it had assessed the proposal on the basis of it being enabling development to bring forward the benefits put forward by the appellant. The Council therefore has demonstrated that it made a balanced decision having regard to the proposed public benefits. Whilst the Council considered that works outside the application site could not

be a public benefit related to the proposal, this does not however imply fault or otherwise on their behalf, as reasons were given in this regard.

6. The Historic England Practice Note 4 is a guidance document and not adopted policy. Furthermore, I note the proposal does not involve works related to a heritage asset, therefore such guidance is of limited relevance in the consideration of the appeal scheme in my view.
7. The Council's officer report includes summaries of comments made by consultees, including Notts Wildlife Trust. I therefore consider that this demonstrates the Council gave due consideration to the views of the Trust in reaching its decision.
8. Having regard to all the evidence provided, I do not consider the Council changed its position on the proposed scheme after refusing the planning application. Although, I appreciate that clarification points have been made by the Council in relation to some matters set out in the officer's report in their appeal representations.
9. The variance of opinion and how benefits are weighted by the opposing parties does not amount to unreasonable behaviour. Rather it is a judgement made, having regard to the planning balance exercised, which the Council have demonstrated they undertook.
10. I also note that the application was determined in a timely manner and accordingly no undue delay was caused by the Council during the planning process.

Conclusion

11. In view of the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, an award of costs is not justified against the Council.

C Billings
INSPECTOR