



Costs Decision

Hearing held on 6 December 2023

Site visit made on 8 December 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2023

Costs application in relation to Appeal Ref: APP/K2420/W/23/3327377 Forest Hill Golf and Country Club, Markfield Lane, Botcheston, Leicestershire LE9 9FH

- 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 Hinckley and Bosworth Borough Council for a partial award of costs against David Daniels and Neil Vitale (Sparsis Leisure Limited).
 - The appeal was against the refusal of planning permission for proposed 98 bed hotel with leisure facility and spa (class C1).
-

Decision

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

The submissions of Hinckley and Bosworth Borough Council.

2. The appeal follows from a previously refused proposal and a number of issues raised before have not been overcome. The appeal has led to the Council needing to hire consultants and has taken up considerable officers' time. Information provided by the appellants at the hearing has caused delay and the need for the appeal site visit on a separate day with subsequent further expense of officer time. Examples of further information provided at the hearing include an offer that a right hand ghost turn lane could be provided at the proposed access and extra information on the proposed mini bus service. Uncertainty on the appellants' submission on the first of these issues led to an adjournment that could have been avoided.

The response from David Daniels and Neil Vitale (Sparsis Leisure Limited)

3. Compared to the previously refused scheme, the appeal proposal is reduced in size with updated and additional supporting information. The appellants have followed normal process in submitting a revised planning application. It is not clear which further information the Council says it had not seen before the hearing. Indeed, the Council has raised issues that are not clear from its decision notice, for example in respect of the appellants landscape and visual impact assessment. Again, the appellants have only followed due process through the appeal. It is not the appellants' responsibility if the Council decides to appoint external consultants.

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. From the limited information provided, it would seem that the previously refused scheme is significantly different to the appeal proposal, particularly in terms of scale. As such, I am unconvinced that the Council was bound to arrive at the same decision on the revised proposal. The appellants were entitled to apply to obtain the Council's decision on a revised proposal and they have not acted unreasonably in lodging an appeal.
6. I asked questions to the appellants on the proposed mini bus service at the hearing and so it is perfectly reasonable for attendees to verbally provide information and clarification on the matter. The responses from the different contributors were to a degree inconsistent but this did not cause significant delay in the proceedings. The adjournment I allowed for the appellants to confirm their position in respect of the ghost right hand turn lane was over the planned lunch break and so this did not unduly prolong the hearing.
7. The site visit had to take place on a different day to the hearing but this was due in part to the shorter daylight hours on the wintertime date of the hearing and to the delay caused by applications for costs by both the Council and the appellant. In any event, I fail to see how the Council officer has incurred additional time or expense by attending a site visit on a separate day compared to a visit being on the same day as the hearing.
8. For the above reasons, I conclude that the costs application fails to demonstrate unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG. Therefore, an award of costs is not justified.

Jonathan Edwards

INSPECTOR