



Costs Decision

Hearing held on 16 November 2023

Site visit made on 16 November 2023

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2024

Costs application in relation to Appeal Ref: APP/C1570/W/23/3324961 Land to the North of Birchanger Lane, Birchanger, Bishops Stortford CM23 5QA

- 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 Messrs O'Connor, Connors, and Delaney for a full award of costs against Uttlesford District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the change of use of land for the stationing of caravan and mobile homes for residential purposes and ancillary works (comprising the formation of 6 no. pitches, each comprising of 2no. static caravans and 1no. touring caravan).
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Decision

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

Reasons

2. The Planning Practice Guidance 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. It is the applicant's case that the Council disregarded a number of material considerations in making its decision on the application, including the previous appeal decision in respect of the site and the finding of very special circumstances in that instance; that the policy position has not changed since the determination of that appeal; and, the conditions, described as "unnecessary and unreasonable", suggested in the Officer's report to the committee members that may have influenced their decision. The applicant also makes reference to "unsustainable and unsubstantiated reasons for refusal". This the applicant suggests amounts to unreasonable behaviour on the part of the Council that has "directly resulted in the appellants having to incur unnecessary expenses in pursuing the appeal".
4. In response, the Council notes that members of the planning committee did not, having considered the Officer's recommendation and previously allowed appeal, come to the same conclusion. The response to the costs application notes that in this respect there is a need for the decision maker to make a judgement. The council also contends that it has substantiated the reasons for refusal.

5. I have had regard to the Planning Practice Guidance that states¹ "costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded".
6. It is clear from the Officer's report and the committee minutes that consideration was given to the earlier appeal decision and the personal circumstances of the occupiers of the site.
7. Furthermore, the conditions detailed in the Officer's report do not appear unusual and are similar to a number imposed on the earlier planning permission granted at appeal.
8. It was not at dispute between the parties that the appeal proposal was inappropriate development in the Green Belt and would harm the openness of the Green Belt. Furthermore, the appellant's own evidence acknowledged that, "unmitigated, the development site is exposed to environmental noise of a sufficient magnitude to cause a medium risk of adverse impact." As such I am satisfied that the Councils reasons for refusal were substantiated at appeal.
9. I note that the air quality issue also referred to in the second reason for refusal was withdrawn at an early stage of the appeal process and on this basis, I am satisfied that this was not unreasonable and did not result in the appellant incurring wasted expense.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Mr M Brooker

INSPECTOR

¹ Paragraph: 033 Reference ID: 16-033-20140306 Revision date: 06 03 2014