The Planning Inspectorate

Costs Decision

Hearing held on 16 January 2024

Site visit made on 16 January 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 March 2024

Costs application in relation to Appeal Ref: APP/N0410/W/23/3328366
Fourells Paddock, Richings Way, Iver SL0 9DE

- 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 Bhagat Hundal for a full award of costs against Buckinghamshire Council.
- The appeal was against the refusal of planning permission for outline planning application for the demolition of existing residential properties and equestrian buildings to facilitate the construction of up to 30 dwellings to include 40% affordable housing provision with First Homes, up to 2 self-build plots, public open space and associated infrastructure and landscaping. All matters to be reserved except for the creation of new site access.

Decision

1. The application for costs is refused.

Context

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 PPG goes on to explain that unreasonable behaviour in the context of an application for an award of costs may be either procedural – relating to the process; or, substantive – relating to the issues arising from the merits of the appeal.

The submissions for Mr Hundal

4. The costs application was made in writing prior to the hearing but points were added verbally during the hearing. The application for costs is based on the claim that the scheme was recommended for approval by officers following a lengthy pre-application process and negotiations during the application stage. It is also highlighted that only five of the members that took part in the vote at the meeting of the Planning Committee took the opportunity to attend the formally arranged site visit prior to the meeting and that neither of the Councillors that proposed or seconded the motion to refuse the application visited the site, with only one Councillor that voted to refuse the application having personally visited the site itself.

5. The other key point raised by the Applicant is the absence of any debate about whether very special circumstances existed to justify granting permission, despite the harms identified by the Councillors. The Applicant considers that

overall, the Committee did not assess the application with proper and fair consideration of the relevant impacts and benefits, and failed to adequately explain why they disagreed with the recommendation for approval by officers.

The response by the Council

6. The response by the Council was made in writing. The Council highlight that its constitution encourages Councillors to attend pre-committee site visits but that they are not obligated to do so. It is believed that the Councillors had sufficient knowledge of the site and proposal from the detailed presentation given at the meeting ahead of the debate.

7. It is also stated that the Committee were reminded on numerous occasions to consider the very special circumstances necessary in the context of a Green Belt proposal and that, ultimately, members of the Committee are entitled to take a different view to officers and reach a different judgment on matters material to the consideration of the application. The Council's conclusion is that the reasons for refusing the application are clear, precise and adequately substantiated.

Reasons

8. The recommendation of the Council's Planning Officer is set out in the Committee agenda pack and I have reviewed the transcript of the verbal presentation to the Members that went along with it. The Officer's views are clear, though my decision sets out why I have reached different views on some aspects, even though the overall outcome is essentially the same as was recommended.

9. The plans and photographs shown in the presentation would have given a good understanding of the site and its context, which such are intended to do adequately for the purposes of Committee consideration. However, having benefitted from a visit to the site, viewing it from surrounding public areas and/or from visualisations are poor substitutes to having seen it with one's own eyes. Nonetheless, the transcript suggests Committee Members appear to have reached their own informed, rational and well explained views with an adequate understanding of the site.

10. Though I understand the Appellant's disappointment with the Committee outcome, Members are entitled to their own views. In this case, the definitional harm and harm to openness of the Green Belt comes through from the debate transcript. The Officer's reminded Members to be mindful of the very special circumstances (VSC) test as part of reaching an overall conclusion. Though I can see that the debate moved around quickly at this point in the proceedings and with Officers providing assistance, it is evident that the Committee were cognisant of the reasons for refusal being moved and the form of wording that was taking shape on which the formal votes would be cast. These reasons include the VSC tests. It appears that the Committee were also cognisant of the potential costs implications of them overturning the officer's recommendation.

11. In my view, there is room for improvement to ensure that the Committee site visits are more widely attended and for better articulation of the relevant reasons for either approval or refusal by Members offering them to their colleagues. However, taking all points into account and on balance, I find that

there were planning judgements to make and that the Committee exercised its right to reach different views to its professional officers. The Council's refusal reasons are not vague or generalised. Furthermore, the Council's case amounted to an appropriate substantiation of the same and the relevant deadlines were observed.

12. As such, I do not find that the Council has acted unreasonably or that wasted expense has occurred.

Conclusion

13. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is therefore not warranted.

H Nicholls

INSPECTOR