



Costs Decision

Hearing held on 8 May 2024

Site visit made 8 May 2024

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 June 2024

Costs application in relation to Appeal Ref: APP/H0520/W/23/3334636 Legacy Park, Chatteris Road, Somersham, Huntingdon, PE28 3DN

- 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 Frederick Adams for a full award of costs against Huntingdonshire District Council.
 - The appeal was against the refusal of planning permission for Change of use of land to provide four additional Gypsy/Traveller pitches with day rooms and gym room/ store.
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Decision

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

The submissions for Mr Frederick Adams

2. The costs application was submitted in writing. The following additional points were made orally.
3. The Council have failed to determine the application within statutory timescales. The applicant's agent was not able to respond to or make amendments to the application. The Council's statement of case was very short and the statement of common ground has taken time to agree.
4. A number of matters have fallen away during consideration of the appeal, apart from Flood Risk. The Council did not consult the Internal Drainage Board (IDB) despite being advised to by the Environment Agency. The IDBs response was not reported accurately within the officer report and was not genuinely understood by the case officer.
5. The Council failed to accurately assess flood risk and made too many assumptions. It is difficult to see how the Council would be content with any flood risk assessment. The application should have been approved.

The response by Huntingdonshire District Council

6. The response was made in writing. The following additional points were made orally.
7. The Council worked with the applicant and made multiple attempts to make contact throughout the consideration of the application. Despite the shortness of the statement of case the Council's case is articulated within the officer report and this is sufficient.
8. With regard to the landscaping of the site it was unclear whether this was within or outside the application site and this led to some confusion.

9. The Council has made detailed flood risk points as part of its defence of the appeal. The Council has to make a decision at some point and this had to be balanced with timeliness. The Council has not been unreasonable in its position with regard to accepting further amendments.

Reasons

10. 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.
11. It states examples of unreasonable behaviour include (i) preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; (ii) failure to produce evidence to substantiate each reason for refusal on appeal and (iii) vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
12. The application was determined by the Council some considerable time after the statutory 8-week period and whilst I understand the sense of frustration which delays might have, it would not be reasonable to conclude that the Council had behaved unreasonably in the procedure leading up to the appeal on the basis of the information before me, which indicates that there was ongoing dialogue between the parties. These discussions appear to have resolved the issues identified with bin storage, which the Council agreed not to defend as part of the appeal.
13. Whilst it did take some time to agree the statement of common ground and there was still uncertainty on the day of the hearing as to the statement that had been agreed, I do not consider that the content of the statement of ground was substantially different to the one that was under discussion during the appeal timetable and therefore additional costs have not arisen as part of this delay.
14. The reasons for the refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the Huntingdonshire Local Plan to 2036, May 2019 that the proposal would be in conflict with. The reasons have been adequately substantiated by the Council in its appeal statement. The appeal statement demonstrates how the proposal would result in an unacceptable form of development as the statement has made clear reference to the reasons why the development would be at risk from flooding, the impact on the character and appearance of the area and the concerns relating to social isolation.
15. Whilst there were some discussions at the hearing as to whether the landscaping around the site formed part of the application site and whether this had been properly considered by the Council, I do not consider that this finding had a significant bearing on the outcome of the application, such that an appeal could have been avoided.

16. I acknowledge that the lack of consultation with the IDB was an oversight on behalf of the Council and that they relied upon the response secured by the applicant's agent in considering the application. I also raised at the hearing that the Council could have done more to seek a response from the IDB in time for the appeal hearing by speaking directly to someone at the IDB, rather than relying solely on a system generated notification. However, the consideration of the appeal predominately focused on the need for a sequential test and on this basis the lack of a formal response from the IDB, whilst regrettable did not cause the party applying for costs to incur unnecessary or wasted expense in the appeal process.
17. Accordingly, the Council did not fail to properly evaluate the application or consider the merits of the scheme and therefore an appeal was likely. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.

Conclusion

18. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

G Pannell

INSPECTOR