



Costs Decision

Site visit made on 18 June 2024

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 19th July 2024

Costs application in relation to Appeal Ref: APP/W0530/W/23/3333808 Land Parcel COM4, Neal Drive, Orchard Park, Cambridge

- 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 Cammaro Limited for a full award of costs against South Cambridgeshire District Council.
 - The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) (Act) for the development of land without complying with conditions subject to which a previous planning permission was granted.
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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. The original planning application was refused by the Council's Planning Committee, contrary to the officer's recommendation for approval. While Members of such Committees are not bound to accept the recommendations, the PPG states that examples of unreasonable behaviour by local planning authorities that risk an award of costs include failure to produce evidence to substantiate each reason for refusal on appeal, vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis and not determining similar cases in a consistent manner.
4. The first reason for refusal relates to the provision of car parking. The approach to parking provision in the appeal proposal was similar to that taken in a nearby scheme (Topper Street scheme). While I note the similarities between the schemes in terms of size and their proximity to each other, the Topper Street scheme was approved in September 2021 and the application subject of this appeal was determined in September 2023, by which time the surrounding Orchard Park development had progressed substantially and houses occupied. Therefore, the Council had not behaved unreasonably by not determining the case in a similar manner.
5. The Council does not appear to have compared the more recent 2021 Census data to the 2011 Census data with respect to local car ownership. I also note the evidence regarding the longevity of car clubs. However, the Council's evidence regarding car parking in the area aligns with local concerns regarding parking. Therefore, even if the Council had behaved unreasonably with respect

- to these matters, the Applicant would have had to deal with the matter of car parking and incurred relevant costs in the appeal process in any event.
6. I note the reference to minimum car parking standards in the Council's appeal statement. Policy TI/3 of the South Cambridgeshire Local Plan Adopted September 2018 (LP) does not state that the car parking standards are minimum requirements as it does for cycle parking. As the Council refer to minimum car parking standards in their response to the application for an award of costs as well as their appeal statement, this does not appear to be a typographical error. Therefore, the Council has behaved unreasonably in this respect. However, the overall matter of the effect of the proposed car parking provision on the living conditions of future occupiers and neighbouring occupiers is matter of planning judgement. Therefore, the Applicant would have incurred relevant costs in the appeal process in any event.
 7. In terms of the planning balance, the Council's appeal statement refers to other considerations, which are set out in the officer's committee report. In addition, the Council's Appeal Statement states that in their view, overall, the Council disagrees with the claim that the quality is better than what was previously approved. Accordingly, the other considerations were taken into account in the decision to refuse the application and the Council did not behave unreasonably in this respect. In addition, it appears that the Council would have refused the application in any event and the Applicant would have incurred expense in the appeal process.
 8. In summary, although I have disagreed with them, 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 development plan that the proposal would be in conflict with, in the view of the Council. These reasons have been adequately substantiated in the Council's Appeal Statement submitted as part of the appeal.
 9. Accordingly, I consider that the Council has not failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The Applicant had to address those concerns and the evidence of third parties in any event.

Conclusion

10. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Sabu

INSPECTOR