



Costs Decision Site visit made on 25 June 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th August 2024

Costs application in relation to Appeal Ref: APP/H0520/W/23/3330136 Land to the East of Ivy Way, Spaldwick PE28 0UN

- 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 Blenheim Land and Homes Ltd for a full award of costs against Huntingdonshire District Council.
- The appeal was against the refusal of planning permission for construction of 15 no. dwellings with associated access, car parking and landscaping.

Decision

1. The application for an award of costs is allowed in the terms set out below.

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. 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.
4. On procedural grounds the appellant cites a lack of co-operation stating that the Local Planning Authority (LPA) concealed relevant information at the planning application stage, particularly the response from the Public Rights of Way Officer (PRoW) and HDC Waste Officer which was not made publicly available until the day before determination and the response from the Urban Design (UD) Officer, which was not made publicly available until a week before determination. The Appellant further alleges that the LPA had falsely suggested that the comments from the PRoW and UD officers had objected to the application, which was not the case and did not give time to the Appellant to respond and did not reasonably give them time to be aware of these comments.
5. On substantive grounds the appellant submits that the LPA has not provided any evidence to substantiate the reasons for refusal, making vague, generalised or inaccurate assertions about a proposals impact which are unsupported by any objective analysis, including highways impacts and flooding. The Appellant puts forward that all reasons for refusal could be dealt with by condition and could not have amounted to informal amendments. In this respect the appellant states that by failing to engage with the applicant

throughout the course of the application to resolve the issues arising with the application this has caused the appeal to come forward.

6. I have had regard to the PPG that indicates at Paragraph 047 that LPA's will be at risk of a procedural claim being made against them for reasons including lack of co-operation and failure to adhere to deadlines. Paragraph 049 of the PPG indicates that LPA's will be at risk of a substantive award being made against them for, amongst other things, vague, generalised or inaccurate assertions about a proposals impact, which are unsupported by any objective analysis.
7. 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 that the proposal would be in conflict with. However, in my view, the appeal statement does not adequately substantiate these reasons.
8. In respect to the first reason for refusal it is clear from the submitted plans that the layout provides for a circular route and that it would not be necessary for refuse vehicles to undertake a reverse manoeuvre within the site to service the properties. Nor has the vague assertion about harm to highway safety been substantiated. Accordingly, I conclude that the LPA behaved unreasonably in assessing the application as being in conflict with the highway safety policies of the development plan and national planning guidance. This has led to unnecessary and wasted expense having to address this matter in their appeal.
9. With regards to flooding and drainage whilst further clarification was sought for the drainage strategy, overall, the consultee raised no objection in principle. Accordingly, such matters could have been dealt via clarification prior to determination or through the imposition of a suitably worded planning condition.
10. In respect of the consideration of the public right of way I have had regard to the evidence provided by both parties. Whilst the policy cited seeks a preference for a separate public footpath from the streets, given the relatively short length of shared surface and the limited scale of the development proposed the LPA has not demonstrated with any clear evidence how the existing public right of way alignment through the site would be unacceptably harmful to pedestrian and highway safety. The re-alignment of a PROW would be secured under a separate regime. As such, I conclude that the LPA behaved unreasonably in assessing the application as being harmful in this regard. This has led to unnecessary and wasted expense having to address this matter in their appeal.
11. On procedural grounds the applicant's claim is that the LPA acted unreasonably in the lack of engagement by not seeking clarification on matters contained in the reason for refusal within the statutory time period for determining the application. The applicant claims that this lack of engagement has resulted in the need to submit an appeal.
12. Whilst I do not dispute that the LPA publicises that it will not entertain amendments to a proposal this is not in the spirit of the National Planning Policy Framework (the Framework) which advocates that in dealing with an application, the LPA should work with the applicant in a positive and proactive

manner based on seeking solutions to problems arising in relation to dealing with a planning application.

13. In this instance the information required was minor in nature to clarify a position. I consider there was sufficient time to seek clarification on these technical matters to determine the application in a timely manner.
14. The LPA issued putative reasons for refusal on grounds that were capable of being dealt with by planning condition. The lack of communication in this respect has had a significant bearing on the outcome of the application, such that an appeal could have been avoided.
15. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the proposed development should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

Conclusion

16. For the reasons given above I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

17. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Huntingdonshire District Council shall pay to Blenheim Land and Homes, the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.
18. The applicant is now invited to submit to Huntingdonshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Gee

INSPECTOR