



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: 28 August 2024

**Waterbeach Court, Denny End Road, Waterbeach, Cambridgeshire
CB25 9PF**

Costs application in relation to Appeal Ref: APP/W0530/W/24/3338968

- The application is made under the Town and Country Planning Act 1990 (Act), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Ben Moore for a full award of costs against South Cambridgeshire District Council.
 - The appeal was against the refusal to grant planning permission for addition of nine additional caravan sites (concrete hardstandings) toilets and stores, provision of central laundry and four showers without complying with a condition attached to planning permission Ref C/64/949, dated 14 January 1965.
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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 PPG goes on to advise that examples of behaviour that may give rise to a substantive award against a local planning authority include vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The reasons for refusal include those relating to the effect of the proposal on the character and appearance of the area and the living conditions of neighbouring and future occupiers. Only illustrative plans indicating a number of options of locations of caravans were submitted with the application and appeal. The permission granted in 1965 did not include a control on the layout of the caravans, and the condition subject of the appeal relates to the number of caravans. The site benefits from a certificate of lawful development which allows 59 caravans on the site without restriction on the layout.
5. Section 73 of the Town and Country Planning Act 1990 (Act) allows for a grant of permission for the development of land without compliance with conditions subject to which a previous permission was granted. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Act requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council therefore had a duty to determine the application against the development plan and any material considerations.

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6. The Site License, Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 inform matters such as the position and size of caravans on a caravan site. However, this legislation does not directly reference development plan policy. Accordingly, while they are material considerations, it does not necessarily follow that the granting of a site licence under the relevant legislation would guarantee accordance with the development plan.
 7. I acknowledge the case law noted by the Applicant. However, in my view, the Council did not behave unreasonably by requiring a layout indicating proposed positions of caravans in order to assess the scheme against the development plan. I have considered that the scheme would not be more harmful than the extant permission. I made that determination mainly by attributing more weight than the Council did to the fall-back position, which is a matter of planning judgement for the decision maker.
 8. In terms of the evidence regarding the trees subject to Tree Protection Orders (TPOs), no evidence such as an arboricultural report was submitted to demonstrate that the proposal would not result in harm to the trees or visual amenity of the area. Therefore, the Council did not behave unreasonably by requiring detailed information about the protection of the retained trees in order to make a planning judgement. The location of trees to be replanted is a matter for the parties as I must determine the appeal based on the evidence before me. In any event, the issue of whether the proposal would cause greater harm than the fall-back position in terms of visual amenity and the trees subject to TPOs is a matter of planning judgement for the decision maker.
 9. Two of the reasons for refusal relate to flood risk and protected species. No detailed evidence such as a Flood Risk Assessment or Ecology Appraisal was submitted to demonstrate that the proposal would not be harmful in terms of flood risk or protected species. The proposal would result in a greater number of caravans on the site. However, the issue is a matter of planning judgement, and, as with the other main issues, one where I attributed significant weight to the fall-back position. Therefore, the Council did not behave unreasonably in this respect.
 10. Turning to the reason for refusal relating to cycle and car parking, while the site licence sets out layout parameters for roads footpaths and parking, it does not relate directly to the development plan. As such, as with the issues relating to character and appearance and living conditions, it does not necessarily follow that accordance with the site license would result in accordance with development plan policies. I have found that the limited number of future occupiers would be unlikely to result in a number of vehicles that would cause highway safety concerns. However, the Council did not behave unreasonably by requiring cycle and car parking layouts for the scheme in order to make an assessment against the development plan which is a matter of planning judgement.
 11. 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.

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12. 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

13. 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