
Costs Decision

Hearing Held on 7 August 2024

Site visit made on 7 August 2024

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 September 2024

Costs application in relation to Appeal Ref: APP/P1805/W/23/3334752 The Stables, Dale Lane, Lickey End, Bromsgrove B60 1GZ

- 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 Stuart Broadley for a full award of costs against Bromsgrove District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for a mixed use for stationing caravans for residential use and the keeping of horses, with dayrooms and existing stable ancillary to that use.
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Decision

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

The submissions for the appellant

2. The Council has sought to prevent and has delayed a development which should have been granted planning permission. It has not considered the full range of material considerations and has misunderstood some issues.
3. The Council has failed to advance any evidence of substance in relation to the effects on the character and appearance of the area. It has not analysed where the proposal would be visible from and has not analysed character in a proper way. In this respect, they have made vague and generalised assertions of harm.
4. The Council had not considered the established principle of the use of a temporary consent which would have had the effects of reducing any harm on the Green Belt by virtue of its limited time-span.
5. The Council has failed to review their case in a prompt manner upon receipt of the appeal decision, referred to in the main decision as Batemans Lane (Ref: APP/P1805/W/23/ 3325331) of November 2023. If they had done so, they would have been able to limit the appellant's costs by withdrawal from the current appeal.

The response by the Council

6. The Council disagrees with the basis of the claim for costs. The case has been properly considered in relation to the NPPF, PPG and PPTS and in the light of other appeal decisions. It has not acted unreasonably.

7. In relation to a temporary consent, the proposal was considered as submitted by the appellant and it is not for the Council to seek to amend what is in front of them. In addition, the Council considered that the case would be suitable for determination by the Written Representation method, which would have involved less expense. In conclusion the Council considers that it has not acted unreasonably and there is no basis for costs to be awarded.

Reasons

8. The national Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own expenses in appeals and that costs may only be awarded against a party who has acted unreasonably and thereby caused the party who is applying for costs to incur unnecessary or wasted expense in the appeal process.
9. The PPTS states that unmet need is unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. In the circumstances of the appeal scheme there are other considerations which need to be weighed in the balance, as I have done in the main decision. It is clear that the Council acknowledge that there is a significant lack of supply of such sites and are clearly aware that the District Plan review which was supposed to consider such matters, has been long delayed.
10. In relation to the assessment of the effects on the character and appearance of the area, the Council's evidence does not contain an extensive analysis and can be considered as minimal. It lacks any specific reference to where the appeal site would be perceived from by the public. However, it does allege a harmful effect, which after consideration of the submissions, discussion and site visit, I agree with, to a degree.
11. In relation to the possibility of a temporary consent, it seems clear that the Council gave no such consideration at the time of determining the application, or at least there is no documentary proof of such consideration. I am unable to determine what conclusion the Council would have reached if they had demonstrated a consideration of a temporary permission but I consider that it is likely that they would probably still have refused the application and we would still have been in the position of considering an appeal.
12. The application was refused by the Council on 8 June 2023 and the appeal was made on 8 December 2023. The appeal decision for the Batemans Lane site (Ref: APP/P1805/W/23/ 3325331) was dated 28 November 2023. The considerations which were relevant to that case are very similar to the case now before me. The effects on the Green Belt were considered, along with the advice in the NPPF and PPTS and it was concluded by the Inspector that the other considerations, which included a failure of policy, a long-standing deficit in supply and the unlikelihood of new sites coming forward in a timely and sufficient manner represented the very special circumstances necessary to clearly outweigh the harm to the Green Belt. These matters equally apply in the current appeal. I consider that it should have been obvious to the Council at the time that it received the appeal that the circumstances of the case were so similar to the Batemans Lane appeal, that it should have reviewed the current appeal. Had it done so, I consider that the only reasonable conclusion that it could have reached was that the current appeal would be treated in the same manner and that their opposition to the scheme should have been withdrawn. In this respect, I consider that the Council acted unreasonably.

13. The Council's actions have meant that the appellant has been unnecessarily put through the full appeal process and has had to expend resources and finance which should not have been necessary. I consider that once the appeal for this proposal had been received, the Council should have reviewed its case and that any thorough review would have led them to abandon their opposition to it. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that an award of costs is justified and those costs should be limited to expenditure and resources committed after the appeal was lodged.

Costs Order

14. 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 Bromsgrove District Council shall pay to Mr Stuart Broadley, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred after the appeal was lodged only; such costs to be assessed in the Senior Courts Costs Office if not agreed.
15. The applicant is now invited to submit to Bromsgrove 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.

T Wood

INSPECTOR