

Costs Decision

Hearing held on 7 November 2024

Site visit made on 8 November 2024

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th NOVEMBER 2024

Costs application in relation to Appeal Ref: APP/P0240/W/22/3291001 The Huts, Thorncote Road, Hatch, SG19 1PU

- 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 Joseph Robb for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for part retrospective change of use of land for the creation of a two pitch Traveller site, comprising the siting of 2 mobile homes, 2 touring caravans, erection of 2 dayrooms, erection of CCTV camera with post, and associated works.
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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 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 basis for the appellant's application for an award of costs against Central Bedfordshire Council is that in the context of an officer recommendation to approve planning permission, the Council's decision to refuse planning permission has not been reasonably substantiated and weighted in respect of the alleged harm caused to the landscape character of the area, to biodiversity and to intentional unauthorised development.
4. In addition to the above, the appellant added to his application for costs at the hearing. His claim is that the Council's failure to notify interested parties of the date/time/venue of the first hearing meant that he (including his team of experts) wasted time and expense in having to attend it. This is because a decision was made by the Inspector to postpone the first hearing owing to the procedural error. The evidence is that the hearing was opened prior to it being postponed.
5. It is noted that the officer recommendation to the Planning Committee was to approve planning permission. However, members are entitled to reach a decision that is contrary to that of its officers.
6. I am satisfied that the Council has substantiated its position in respect of harm caused to the landscape character of the area. This is largely a matter of planning judgement. In respect of the appeal made under section 78 of the Act, I have agreed with the Council's position about the harm that would be

caused to the character and appearance of the area. In respect of this planning appeal, I was unable to conclude in my decision that the identified harm would be capable of being suitably addressed by planning condition.

7. In respect of matters relating to biodiversity, I am satisfied that the Council has substantiated its position. Indeed, landscape features of ecological interest have been lost and, on the evidence that is before me, I have been unable to conclude that the planning application appeal proposal would deliver biodiversity net gain in accordance with the requirements of development plan policy. The appellant did not demonstrate that the harm caused would be reasonably capable of being fully addressed by planning condition. As per the reasoning in my decision, I do not find that the appellant suitably considered the biodiversity baseline position and there were flaws in respect of his biodiversity assessment.
8. I acknowledge that the Council's Planning Committee afforded more weight to intentional unauthorised development than the officer who recommended approval of planning permission. The weight to be afforded to such an issue is a matter of planning judgement. In respect of this matter, I do not find that the judgement of the Council's Planning Committee was in itself unreasonable. Its decision to afford more adverse weight to this matter was based on a full consideration of the facts that had been set out.
9. In respect of the Council's failure to properly notify members of the public of the date/time/venue of the first hearing, in accordance with relevant rules, the Council conceded at the hearing that this error did amount to unreasonable behaviour and that it had resulted in the appellant wasting time and expense in the appeal process. I agree with the Council's conceded position in terms of this matter.

Conclusion

10. For the above reason, I conclude that the Council has acted unreasonably, and that the applicant has been put to wasted time and expense in pursuing the appeal. Therefore, a partial award of costs is justified.

Costs Order

11. 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 Central Bedfordshire Council shall pay to Joseph Robb, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred arising from the first hearing being postponed; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to Central Bedfordshire 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.

D Hartley

INSPECTOR