



Costs Decision

Site visit made on 20 November 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Costs application in relation to Appeal Ref:

APP/J0540/W/24/3337478

Land at Hampton Beach, Hamptons East, Peterborough

- 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 BDW Cambridgeshire for a full award of costs against Peterborough City Council.
 - The appeal was against the refusal to grant approval to details required by a condition of a planning permission for reserved matters application pursuant to outline planning permission 04/01927/WCPP for approval of access, appearance, landscaping, layout and scale for the primary infrastructure to construct the spine road and bellmouths through Hampton Beach, together with the associated works, including drainage, ground works and landscaping (part-retrospective). An Environmental Statement was submitted to the planning authority at the time of the outline planning permission.
-

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. PPG explains that unreasonable behaviour in the context of an application for an award of costs may be either:
 - procedural – relating to the process; or
 - substantive – relating to the issues arising from the merits of the appeal.
3. The PPG sets out what type of behaviour may give rise to a procedural award against a local planning authority which includes amongst others: only supplying relevant information at appeal when it was previously requested, but not provided, at application stage. The PPG also sets out what type of behaviour may give rise to a substantive award against a local planning authority which includes amongst others: 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.
4. The appellant claims that no detailed review of the raised table design and its impact upon speed restraint was provided during the consideration of the reserved matters application 23/00628/REM. The detailed objection to the raised table element was only apparent for the first time within the Councils'

Appeal Statement. It is claimed that this has resulted in new concerns not set out in the refusal and Officers' delegated report.

5. It is also claimed that the Council raise new concerns regarding the position of the bus shelter within the road design within their Appeal Statement which have not previously been set out as part of the earlier application process. This is said to have prevented any amendments being made.
6. I understand that extensive preapplication advice in respect of the spine road has taken place albeit not specifically relating to this scheme but that of a very similar nature which covered matters relating to traffic calming, design speeds, bus route etc. From the evidence before me, it is clear that the Local Highway Authority clearly explained that speed restraint features and horizontal alignment will be required throughout. To this end, it was also explained that horizontal deflection measures such as road narrowing's, build outs, chicanes, bends in the carriageway may all be used to restrain vehicle speeds and that vertical deflection should be avoided, particularly on bus routes. On this basis, the objection to the use of such vertical deflections is not a new area of concern.
7. Whilst it would have been useful for the Council to have set out their detailed review of the raised table design earlier, their approach is not unreasonable given the discussions that have already taken place regarding the use of such vertical deflections and the concerns regarding the proposed road alignment/design of the proposed spine road. The Council has quite properly expanded on its refusal reason in its Appeal Statement but has not introduced fresh matters. Additionally, the consultation response received from the Local Highway Authority refers to the need for horizontal deflection of the carriageway as well as requiring the bus shelter to be located between the cycleway and the carriageway.
8. The road safety concerns with the appeal scheme are clearly set out in the Officer's report, refusal notice, Councils' Appeal Statement and Local Highway Authority's Appeal Statement. This, along with my findings on the main appeal, then I find that the Council has not prevented or delayed development which should have clearly been permitted, having regard to its accordance with the development plan, national policy, and any other material considerations.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

N Teasdale

INSPECTOR