



Costs Decision

Site visit made on 10 January 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Costs application in relation to Appeal Ref: APP/W1145/W/24/3345128

Briars End, land adjacent to Briar Hayes, Hatchmoor Road,

Great Torrington EX38 7BU

- 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 Clive Armstrong for a full award of costs against Torridge District Council.
 - The appeal was against the refusal of planning permission for single dwelling and garage.
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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. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. In respect of procedural matters, the PPG provides examples of unreasonable behaviour which may result in an award of costs. These include where there has been a lack of co-operation with the other party or parties; deliberately concealing relevant evidence at planning application stage or at subsequent appeal; or, providing information that is shown to be manifestly inaccurate or untrue.
4. Additionally, the PPG says that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of this include 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; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. Procedurally, the applicant is concerned that the Council inaccurately described the Artificial Grass Pitch (AGP) as a MUGA. However, I have found in the main decision that the terms are interchangeable. Regardless of its name, both main parties provided an assessment of the effect of the nearest facility on the appeal site. In that context, the applicant's noise report claimed to be in compliance with both MUGA and AGP guidance provided by Sport England. I do not agree that the

Council's understanding of the layout of the school's facilities is flawed or inaccurate.

6. It would appear that the Council did not enter into detailed discussions during the application in respect of the relevance of AGP guidance, though the evidence shows that other communications were ongoing throughout the application process. It is of note that no pre-application discussions took place and there is little to demonstrate the Council did not behave co-operatively as encouraged within the National Planning Policy Framework. Moreover, the applicant says that the Officer report contained inaccurate and misleading information, though no specific details have been provided in this regard. For the reasons given, no unreasonable behaviour has been shown.
7. In respect of the substance of the matter under appeal, the applicant says that the Council refused to acknowledge the findings of the noise report in respect of AGPs. Although relating to proposed new AGPs, I agree with the applicant that the guidance is of some relevance. Notwithstanding the Council's Environmental Protection Officer comments in the costs application, this guidance does not just derive noise limits from road traffic. It says that the main sources of community noise are emitted from road, rail, and neighbourhood, amongst other things. It adds that typical neighbourhood noises come from sports events and playgrounds. In the absence of any alternative means to measure the effect of noise on the appeal site, the Council should have provided a more accurate analysis of these findings.
8. However, the applicant had already carried out noise assessments during the application which have subsequently been relied upon in the appeal. Attempts to show compliance with the relevant guidance would still have been necessary. Consequently, the appeal could not have been avoided. Therefore, while the Council behaved unreasonably by relying on part of the evidence presented to it, I find that no unnecessary or wasted expense has been incurred.
9. In respect of the acoustic barriers, it was not incumbent on the Council to concede that these would provide adequate mitigation. Planning judgement was used taking into account the close proximity between the facility and appeal site, which is below the recommended distances set out by Sport England. In that context, there is no reason why the case officer could not rely on the specialist advice as well as other evidence. Ultimately, I have agreed with the Council that the applicant did not go far enough to convincingly demonstrate the appeal site would be a suitable location for the proposed development.
10. For the above reasons, I do not find that unnecessary or wasted expense has been incurred. A full award of costs is not, therefore, warranted.

J Hills

INSPECTOR