



Costs Decision

Site visit made on 23 October 2024

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Costs application in relation to Appeal Ref: APP/R0660/W/24/3343931 Land Adjacent Long Lane, Long Lane, Wettenhall CW7 4HH

- 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 Michael Stokes for an award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for material change of use of land from stable block, menage and use of land for equestrian use to a mixed use of stables, menage, use of land as equestrian and the siting of caravans for residential purposes and the erection of two dayrooms together with associated hardstanding.
-

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 cost application is made in respect of substantive grounds relating to the merits of the appeal. The applicant is seeking a full award or partial award of costs on the basis the Council have acted unreasonable in considering the material considerations in the case individually as opposed to in combination, including reference to reason for refusal 3. Thus, the applicant contends the Council would have reasonably identified that permission should have been granted, and in not doing so has acted contrary to, or not following, well-established caselaw¹.
4. The applicant also asserts that costs is sought based on reason for refusal 3 on the Council's decision notice, relating to insufficient information being submitted with the application to confirm the status of the applicants and the cultural need for appropriate accommodation on the site, and if any other sites have been considered.
5. The PPG is clear that where a local planning authority has refused a planning application for a proposal that is not in accordance with development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there shall generally be no grounds for an award of costs.

¹ *Basildon District Council v First Secretary of State v Mrs R Temple* [2004] EWHC 2759 (Admin)

6. It is noted that the caselaw cited by the applicant, relates to development in the Green Belt, and related to very special circumstances, which were not the same circumstances and/or the same considerations in this case, however the weight to be given to any particular factor will also be a matter of degree and planning judgement.
7. The Officers report sets out that the planning application was determined in accordance with the relevant development plan policies and sets out the positives and negatives of the scheme including relevant material planning considerations to this specific case. It concludes that that on balance the proposal was unacceptable. Thus, I do not consider the Council has not had regard to the material planning considerations in combination with each other. The absence of wording suggested by the applicant does not lead me to take a different view, or what the Council should have done or not done in their appeal statement of case. Nonetheless, the weight, if any, which should be given to a particular consideration is a matter for the decision maker.
8. The Council's statement of case clearly acknowledges that since the planning application was determined there were revisions to the National Planning Policy Framework, and the Planning Policy for Traveller Sites in December 2023. It was also clearly known by both parties that national planning policy had changed when the appeal was lodged. The Council's case evolved in recognition of the planning policy changes and set out it was not now able to possibly demonstrate with certainty a deliverable five-year supply sufficient to meet identified need. It is regrettable that the Statement of Common Ground was received late, however both parties were aware of the appeal timescales and in my view both parties contributed to its delay, than solely the Council.
9. Although, I have found in the formal decision that the proposal would not cause harm to the character and appearance of the area, and that it is within a suitable location, these were matters of planning judgement for the Council at the time of the determination. Therefore, I do not consider the Council has acted unreasonable in coming to its decision, or contrary to caselaw and exercised their duty to determine in a reasonable manner.
10. Regarding reason for refusal 3, and having reviewed all the evidence, the planning application case for the appellant was somewhat limited at the determination stage. Other than the application form, and plans there was a 2-page planning statement submitted which states "*the applicant seeks planning permission for a residential pitch to meet a recognised need for such facilities in the area and to facilitate a gypsy lifestyle*".
11. I acknowledge there is no requirement in national planning policy that proposed occupants' details must be provided. However, I do not consider that the Council had acted unreasonable in terms of establishing any personal need, and it is indeed important to try and ascertain the relationships between any intended occupiers of a site, and their individual and collective needs. In this case, and only through the appeal evidence the applicant is not the intended occupier of the site and arguments were put forward by both parties in the appeal relating to personal considerations of granting permission.
12. I see no reason as to why the Council were not entitled to rely upon development plan policy HOU5 of the Site Allocations and Development Plan Policies Document following its adoption in 2022. The policy requires evidence to be provided, and the Council did not act unreasonable in requesting such

- information following consultations with the Spatial Planning Officer. It is not clear from the evidence as to why the applicant did not engage or co-operate with the Council at the planning application stage, prior to determination.
13. Notwithstanding the above, the Council did acknowledge in the Officers report that if permission were approved a standard condition could be attached requiring that the occupants of the pitches must meet the definition of the PPTS, which could be unreasonable behaviour if that was the only issue in this case, which it was not. Therefore, I do not consider the Council acted unreasonable in requesting such information or stating that insufficient information had been provided in order to comply with development plan policies.
14. Moreover, and in the context that substantive evidence was only provided with the appeal, the Council withdrew their objections to reason for refusal 3. Similarly, until the appeal stages no evidence pertaining to highway safety and the use of the access was provided, and again this necessitated reason for refusal 2 to be withdrawn in the appeal. Overall, I consider that in the absence of information pertaining to reason for refusal 3 at the planning application stage, the Council could not make any informed judgement having regard to the development plan, national policy and material planning consideration. The Council clearly reviewed their case promptly following the lodging of the appeal, and did not act unreasonable in doing so as part of a sensible on-going case management.
15. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K A Taylor

INSPECTOR