



Costs Decision

Site visit made on 21 January 2025

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2025

Costs application in relation to Appeal Ref: APP/J1535/W/24/3340995 Playing Fields, Waltham Abbey Leisure Centre and Community Centre, Ninefields, Waltham Abbey EN9 3EH

- 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 Housing21 for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal to grant approval to details required by a condition of an outline planning permission for a Health Centre building; 60 Independent Living Older Persons Apartments Building (Use Class C2 - with a minimum of 6 hours care to be provided per week for each apartment) minimum 40% affordable; Leisure Centre and Swimming Pool Building (to include Fitness Suite and Community Hall) ; Open Space including a mini soccer grass pitch for use by under 7 /8 year olds and footpaths; Ancillary development including three vehicular accesses off Hillhouse, car parking, and SUDs Infrastructure and demolition of Ninefields Community Centre Building.
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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. On substantive grounds, the applicant suggests that the Council have prevented development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material consideration. Whilst I appreciate that I have found the proposal acceptable and the appeal has been allowed, the Council were not unreasonable in coming to their decision and sound planning reasons were given for the refusal of the planning application against the relevant policies within the development plan. It is not unreasonable for the members of the planning committee to make a decision which is against the advice of the Council's Planning Officer, as this is a recommendation only, and they are entitled to reach a different conclusion. Consequently, I am not persuaded that the Council has acted unreasonably by preventing development that should have been permitted.
4. The applicant also states that the Council made vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis. It is noted that the Council's report recommended that the application was approved and therefore did not contain any objective analysis in relation to the refusal of the application. However, although concise, the reasons for refusal

provided within the decision notice provides sufficient analysis of the proposal and the Council's decision. Again, whilst I have come to a different conclusion to the Council in relation to the appeal, I have found no evidence to suggest that the Council's comments were vague, generalised or that they made inaccurate assertions about the proposal.

5. It is also contended that the Council persisted in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable and did not determine similar cases in a consistent manner, in relation to the first and second reserved matters applications. Whilst the scale of the development or the impact upon the nearby footpath were not identified as reasons for refusal in the first reserved matters application, by either the Council or the Inspector, I note that the design of the development before me is vastly different to the previous iteration. Therefore, I do not consider it unreasonable or inconsistent for the Council to consider different objections to those raised in the first reserved matters application.
6. Finally, it is put forward that the Council refused to approve reserved matters when the objections relate to issues that should have already been considered at the outline stage. I note that discussions may have taken place during the committee meeting relating to matters which should have been, and likely were, considered at the outline application stage in relation to the loss of the playing field and the need for the development. However, the Council's ultimate reasons for refusal do relate to the reserved matters under consideration and therefore I do not consider that the objections relate to issues that should have already been considered at outline stage.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Planning Practise Guidance has not been demonstrated and an award for costs is not justified.

Conclusion

8. For the reasons given above and having had regard to all other matters raised, the award of costs is refused.

E Grierson

INSPECTOR