



Costs Decision

Hearing held on 16 January 2025

Site visit made on 16 January 2025

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2025

Meadow View, Marshall Way, Foston NG32 2LQ

Costs application in relation to Appeal Ref:

APP/E2530/W/24/3353929

- 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 Ishmael Steele for a partial award of costs against South Kesteven District Council.
- The appeal was against the refusal of planning permission for the change of use from agricultural/equestrian to residential site for 10 static caravans and parking for 1 tourer per static, domestic and light commercial vehicle parking including utility blocks per static and stable blocks on paddocks, amenity and recreation area for residents.

Decision

1. The application for an award of costs is refused.

The submissions for Mr Ishmael Steele

2. The costs application was made orally at the hearing. The applicant alleges that the council acted unreasonably by not presenting any technical noise evidence to substantiate that reason for refusal at the appeal and did not review or dispute the technical noise evidence submitted in support of the appeal. Furthermore, the appellant argues that the council did not review their case promptly following the lodging of the appeal, along with the submission of the new Noise Impact Assessment (NIA), as part of sensible on-going case management. The applicant states that this amounts to unreasonable behaviour leading to wasted expense for the appellant in respect of the attendance of the noise specialist and planning agent at the Hearing.

The response by South Kesteven District Council

3. The response was made orally at the hearing. The council details that the different findings of the NIAs are a matter of professional judgement, that the council's environmental protection team reviewed the earlier assessment, were happy with the methodology of that assessment and that assessment found harm that supported the reason for refusal.
4. The council also noted that the second reason for refusal, relating to health contributions) remained outstanding and would necessitate the appeal in any event.

Reasons

5. 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.
6. In determining the appeal, I found that the site being located adjacent to the busy A1 Road, is affected by noise from traffic on that road. Furthermore, the NIA submitted in support of the application identified harm in respect of the noise levels experienced in the external amenity areas of the appeal site. A new NIA was submitted in support of the appeal which reached a different conclusion.
7. On the basis of the evidence before me it has not been demonstrated that the council reviewed its case sufficiently following receipt of the appellant's new NIA and did not provide any technical noise evidence to dispute the findings of that assessment beyond identifying that, in common with the earlier assessment, monitoring was carried out during the school summer holidays and when traffic levels were still below pre Covid-19 levels. This failure amounts to unreasonable behaviour.
8. However, I am not satisfied that the written submissions in respect of the appeal, in particular the NIA and the Statement of Case, adequately address the reasons why different conclusions were reached in the two NIAs and why the conclusions of the new NIA should be accepted in preference. Identifying these reasons was a significant and key element of Mr Tim Green's evidence at the Hearing.
9. I also note that in any event, a second matter at dispute between the parties relating to healthcare contributions was still unresolved and thus the appeal was necessary.
10. Therefore, the appeal itself and indeed Mr Tim Green's attendance at the Hearing to provide noise evidence in particular was necessary and the behaviour of the council has not resulted in unnecessary or wasted expense. Consequently, an award of costs is not warranted in this instance.

Mr M Brooker

INSPECTOR