The Planning Inspectorate

Costs Decision

Site visit made on 12 November 2018

by Beverley Doward BSc BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 January 2019

Costs application in relation to Appeal Ref: APP/M2325/W/18/3208986
Mill Farm Sports Village, Fleetwood Road, Medlar with Wesham, PR4 3HD

- 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 Mill Farm Ventures for a full award of costs against Fylde Borough Council.
- The appeal was against the refusal of the Council to approve details pursuant to conditions Nos 11, 33, 34 and 46 of a planning permission Ref 13/0655, granted on 17 February 2015.

Decision

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

Procedural Matter

2. The appealed application relates to the discharge of details associated with four conditions (nos 11, 33, 34 and 46) imposed on the planning permission Ref 13/0655, granted on 17 February 2015. However, the application for an award of costs refers only to the Council's decision in relation to conditions nos 33 and 34.

Reasons

3. Parties in planning appeals and other planning proceedings normally meet their own expenses. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG also indicates that costs can only be awarded in relation to unnecessary or wasted costs at the appeal, although behaviour and actions at the time of the planning application may have a bearing on a costs application.

4. The applicant contends that the Council acted unreasonably in refusing to approve the details pursuant to the two conditions referred to above (nos 33 and 34). The applicant states that an important factor in reaching this view is that the application was recommended for approval by planning officers but that the recommendation was not followed by members of the Planning Committee and the Planning Committee subsequently refused the application.

5. Authorities are not bound to accept the recommendations of their Officers, but if their professional or technical advice is not followed, then reasonable planning grounds for taking a contrary decision need to be provided and supported by relevant evidence.

6. The Council did not accept the ratio of parking spaces to spectators to calculate the parking requirements set out in the Car Parking Management Strategy (CPMS) despite these having previously been accepted as the most reasonable estimate of the immediate and short term requirements of the stadium when granting the original planning permission. However, the Council's decision in this respect was informed by evidence provided by the highway authority regarding the inadequacy of the parking provision on the site after two full seasons of the stadium operating and the views of Wesham Town Council, Kirkam Town Council and local residents as to how this was impacting upon the living conditions of nearby residents in the local community. In my view this is a reasonable basis to determine the acceptability of the CPMS.

7. The applicant refers to the Council's reason for refusing to approve the details relating to condition 33 and suggests that, in referring to factors which it considers beyond its control such as the parking behaviour of visitors to the site, the absence of an on-site (overspill) car park which, although identified at the time of the original permission, was not required by either a condition or S106 obligation and the long term availability of some of the parking identified in the CPMS, the Council has acted unreasonably.

8. As I acknowledged in my decision on the appeal, the applicant cannot require all visitors to the site to park in designated on-site parking areas. However, on the basis of the evidence I found that I could not be satisfied that the traffic management measures proposed in the CPMS to address off-site parking were sufficient to safeguard the living conditions of nearby residents in relation to congestion and car parking. Furthermore, whilst there is no requirement by way of either a condition or a S106 obligation to provide the overspill parking referred to at the time of the original permission there is no substantive evidence to explain the position taken within the CPMS that there is now no intention to provide this. Accordingly, I am not persuaded that the Council acted unreasonably in referring to these matters in its reason for refusal.

9. The evidence indicates that the overall level of on-site parking provision intended to be provided for in the CPMS is inadequate irrespective of whether or not its availability can be guaranteed. Therefore, I am not persuaded that any reference in the Council's reason for refusal to the uncertainty of the long term availability of some of the parking identified in the CPMS has resulted in the applicant incurring any unnecessary or wasted expense in the appeal process.

10. The CPMS indicates that there is a commitment to ensuring that any material change in circumstances which would affect the demand for, or provision of on-site parking is matched by equivalent changes to ensure that appropriate parking levels are maintained. However, in the light of the evidence provided by the highway authority regarding the adequacy of the level of on-site parking provision proposed in the CPMS it seems to me that the Council were not unreasonable in questioning the robustness of the review mechanism which makes no provision for a review in the event that demand for parking increases for example due to increases in home attendance.

11. The consideration of matters such as highway safety and the effect of a proposal on the living conditions of neighbours often comes down to a finely balanced planning judgement. The decision of the Planning Committee was informed by the detailed objections to the application from the highway

authority as well as the views of the local Town Councils and local residents. Whilst this differed from the conclusion reached by Council planning officers, the decision was made on justified and reasonable planning issues. Therefore, having regard to all of the above I am not persuaded that the Council has behaved unreasonably such that the applicant has incurred unnecessary or wasted expense in the appeal process.

Conclusions

12. The PPG indicates that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs.

13. For the reasons given above therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for an award of cost is refused.

Beverley Doward

INSPECTOR