
Costs Decision

Hearing held on 3 April 2025

Site visit made on 3 April 2025

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 May 2025

The Hive London, Camrose Avenue, London, HA8 6AG

Costs application in relation to Appeal Ref: APP/M5450/W/24/3357455

- 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 The Hive Football Centre for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for replacement of existing grass pitches with artificial grass sports pitches, installation of floodlighting and fencing, and associated works.
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Decision

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

The submissions for The Hive Football Centre

2. The costs application was made orally at the hearing and was submitted in writing. It can be summarised as:
 - The Council unreasonably delayed the validation of the application;
 - The Council did not liaise with the applicant during the application process;
 - The Council delayed getting an agreed list of conditions; and
 - The Council introduced a new, and false, reason for refusal at appeal.

The response by the Council of the London Borough of Harrow

3. The response was made orally at the hearing. It can be summarised as:
 - Problems with the application documents delayed the validation of the application;
 - Whilst there were delays to uploading consultation responses to the website, the issues were significant and needed additional information to resolve. Moreover all emails were responded to within 10 days and the application was determined within the statutory target;
 - The conditions have been a source of constant discussion throughout the appeal; and
 - There was no reference to the need for a planning obligation to address Biodiversity Net Gain (BNG) in their statement because it is a new requirement.

Reasons

4. 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.
5. It adds that a local planning authority are at risk of an award of costs if they behave unreasonably with regard to substantive matters; for example by unreasonably preventing or delaying development which should clearly be permitted, or by refusing permission on a ground capable of being dealt with by conditions. Costs may also be awarded with regard to procedural matters, such not cooperating with parties, delaying providing information, or introducing a new reason for refusal.
6. It is clear that the application took a number of months to be validated. Even with the issues identified by the Council, four months is a very long time to resolve issues that could have been identified sooner.
7. In addition it is understood that during the determination of the application, responses from consultees, principally Sport England and the Environment Agency, were not provided to the applicant in a timely manner and that Sport England were not provided with the application documentation on which to provide comment.
8. In relation to Sport England, the applicant opened a dialogue with them independently around a month before the application was determined. But it is clear that at the time of the Council's decision on the application, Sport England still had concerns and negotiations were still ongoing some months after the Council's decision. The Environment Agency's (EA) comments were relayed to the applicant around two weeks before the determination of the application. Whilst this gave little time to address the concerns raised, it is unlikely that an earlier response would have provided sufficient time for the concerns to be resolved, given that an amended flood risk assessment which did address the EA's concerns was not produced for several months.
9. Even if it was considered that the delays and perceived lack of cooperation was unreasonable, they did not result in any wasted expense on the part of the applicant. There were still significant unresolved objections at the time of the Council's decision and the time and expense spent on addressing those were not unnecessary. In addition, the list of conditions was an evolving document, and did not involve wasted expense on the part of the applicant.
10. There is also no evidence to indicate that the Council's handling of the application suggests that it was always their intention to refuse planning permission. In particular, the Councillor's request to call in the application to committee is a common request for significant schemes, particularly those with public opposition.
11. It was not unreasonable for the Council to continue to contest the appeal, despite the consultees now withdrawing their objections subject to conditions. The Council is able to take different views to their consultees, particularly in respect of the suitability of conditions, and their position, particularly in respect of the issues relating to flooding and need, was not unreasonable. Their concerns in respect of lighting was also not unreasonable given the proximity of nearby dwellings to the appeal site.

12. The fourth reason for refusal states that proposal did not sufficiently assess the wider ecological impacts on the equality of the environment. Nonetheless, the officers report contains a whole section on biodiversity and discusses the BNG report submitted with the application. It also states that if the development were considered acceptable off-site biodiversity gains would need to be secured via a S106 agreement. Although the Councils appeal statement raises additional concerns on this issue, BNG was not a new reason for refusal, nor was the request to enter into a S106 agreement, albeit it is concluded in the appeal decision that there is no need to enter into such an agreement.
13. Overall, though some of the Council's behaviour was poor practice, it has not been demonstrated that the Council behaved unreasonably resulting in unnecessary or wasted expense on behalf of the applicant, as described in the PPG. Therefore, the application for an award of costs is refused.

A Owen

INSPECTOR