
Costs Decision

Hearing held on 18 October 2016

Site visit made on 18 October 2016

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 February 2017

Costs application in relation to Appeal Ref: APP/R3705/W/16/3150813 Fir Tree Paddock, Quarry Lane, Mancetter, Warwickshire CV9 2RD

- 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 Timothy Gough for a full award of costs against North Warwickshire Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the replacement of existing buildings to utility/day room to serve existing gypsy pitch approved in Appeal Decision APP/R3705/A/08/2066891.
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Decision

1. I refuse the application for an award of costs.

The Submissions for Mr Timothy Gough

2. These were as Document 3 of the accompanying Appeal Decision.
3. The application was for a full award of costs, or a partial award in the alternative. It was agreed at the Hearing that the partial aspects of the claim were firstly, the Council's assertion in the reason for refusal that the size of the dayroom was not necessary in principle, and secondly regarding the effect on the character and appearance of the area.

The Response by North Warwickshire Borough Council

4. These were made orally at the Hearing as follows;
 5. The Council consider that an award of costs would be unreasonable and draw attention to the correspondence between the Council and the appellant during the application process. The letter of 5 October 2015 gave the appellant the opportunity to amend the scheme for essential welfare facilities. The appellant's response of 8 October stated that although the guidance '*Designing Gypsy and Traveller Sites; Good Practice Guide*' had been revoked, there is no indication that standards should now be lower than the 40m² for a dayroom. But, in fact the proposal is 76m².
 6. The Council wrote again on 17 November 2015 stating the view that a dayroom of about 75% of the size of the caravan was excessive when the permitted floor area of the caravan would provide many essential facilities. This letter did not say that a dayroom would not be permitted only that one of the size proposed could not be supported in this location. The day room next door is 40m² shared between the two pitches. The letter stated that the proposal
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would be unlikely to be approved and the reason for refusal is not on the principle of a dayroom on the site, but objects to its size and scale.

7. The 2088 planning permission has been granted and been in use for over 8 years without a dayroom and the proposal is out of proportion to the site accommodation.
8. The policies of the Development Plan are up-to-date with a settlement hierarchy set out and Policy NW8 on gypsy and travellers does not mention dayrooms. The good practice guide has been withdrawn and it is not a given that each pitch would have a dayroom. The Council's concerns over the effect on the character and appearance of the area are shared by others in representation to the application, in view of the size of the building proposed. The Council did not consider a Hearing necessary, having preferred written representations.

Reasons

9. The Planning Practice Guidance 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.
10. Looking first at the principle of development and of the necessity for the size sought, whilst the Council rightly state that neither the Planning Policy for Traveller Sites nor the Development Plan specifically require dayrooms to be provided, it is clear that the Council have no in-principle objection to them being provided, as shown by the grant of permission next door for a 40m² dayroom for two pitches. The Officer's Report refers to the revoked guidance '*Designing Gypsy and Traveller Sites; Good Practice Guide*' and how the proposed building is in excess of the sizes put forward in that document.
11. The first part of the reason for refusal refers to the proposal being 74.6m² and 224m³, and how it is considered that the amenity building proposed for this single pitch would provide facilities far in excess of those required in addition to the facilities already being provided in the approved mobile home. In that the provision of gypsy and traveller sites in the open countryside, as here, is an exception to general policies of restraint, it is reasonable to seek development that is not unnecessarily large, and although now revoked, in the absence of other guidance, the sizes and arrangements show in the previous guidance are a good indication of how the likely need can be accommodated. The permission next door is in line with those dimensions.
12. The Council's references in the Report and in the Reason for Refusal to the appearance of the building and its dimensions being more akin to a bungalow capable of being a stand-alone dwelling, and to the traditional aversion to bricks and mortar appear somewhat gratuitous, as the proposal is not for a residential bungalow, or for stand-alone residential occupation. A further and separate application and permission would be required to secure that, and it is then that comments about aversion and facilitating the traditional and nomadic way of life of travellers would be appropriate, as well as any assessment of conflict with the Development Plan and actual harm. At the Hearing the Council suggested a condition to safeguard against this change of use, which even if not necessary, indicates that control may be exercised.

13. Turning to the effect on the character and appearance of the area, this is covered in the Report and Reason for Refusal as a reference to Policy NW13, but there is little actual analysis of the harm, only the perceived risks of allowing a bungalow capable of stand-alone use and how this is contrary to the settlement hierarchy. There is, as asserted by the appellant, no mention or analysis of the structure to be replaced, other than a statement in the Report that an outbuilding would be demolished.
14. However, those omissions were made-good in the Council's Appeal Statement under the heading '*Impact on the Setting of the Countryside*' where the existing building was commented upon. The appellant was given every opportunity to answer these further comments at the Hearing and at the site visit during which the Hearing remained open.
15. The web-based Planning Practice Guidance gives examples of behaviour that may lead to an award of costs against a local planning authority at reference ID: 16-047-20140306 that include introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen; and prolonging the proceedings by introducing a new reason for refusal.
16. The explicit details of the objection on the grounds of harm to the countryside were provided at the Appeal Statement stage, being only implicit in the Officer's Report and the Reason for Refusal, through reference to the Development Plan policies on the protection of the countryside. It is clear at that later stage what weight the Council placed on the intended demolition of the existing structures. It would certainly have been preferable had the Council made this concern explicit at an earlier stage, and not made the early references to a stand-alone dwelling, which was not what was being applied for.
17. Clearly the Council has been under pressure for new homes on Quarry Lane and may have considered that the grant of permission for a structure that looked like a bungalow may have weakened their case in the future. However, in the same way as the recent grant of permission for a substantial agricultural worker's dwelling to the south of the lane does not imply a loosening of the policies of restraint, neither would this have done.
18. In conclusion, whilst there was a failing, it is not possible to conclude that this directly caused the appellant to incur unnecessary or wasted expense in the appeal process as the reason for refusal is clear as to there being conflict with up-to-date Development Plan policies on a settlement hierarchy and those aimed at protecting the countryside.
19. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S J Papworth

INSPECTOR