
Costs Decision

Hearing held on 16 May 2017

Site visit made on 16 May 2017

by Andrew R Hammond MSc MA CEng MIET MRTPI

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

Decision date: 29 June 2017

Costs application in relation to Appeals Refs: APP/L3815/C/16/3158544 & APP/L3815/W/16/3155643
The Woodlands, Marlpit Lane, Hambrook, Westbourne, West Sussex PO10 8EQ

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Chichester District Council for a full award of costs against Mr Martin Linn.
 - The hearing was in connection with an appeal against an enforcement notice alleging change of use of land for stationing of a mobile home for human habitation and an appeal against the Council's refusal of planning permission for one mobile home for the dual purpose of providing a single travelling showpersons pitch and a single gypsy pitch.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Chichester District Council

2. Reasons for refusal 2 and 3 of the decision notice refusing planning permission (Appeal B) had been withdrawn by the Council. The only extant reason for refusal was that the applicant had failed to demonstrate to the satisfaction of the Local Planning Authority that the future occupiers of the pitch are gypsies and travellers and/or travelling showpersons to meet the definition in Annex 1: Glossary of Planning Policy for Traveller Sites (PPTS) and that, in the absence of this evidence the proposal fell to be determined in accordance with the development plan as not being a development that requires a countryside location.
3. Similarly, the reason for issuing the enforcement notice (Appeal A) was that the occupants of the site had not demonstrated that they met the definitions in PPTS.
4. At the Hearing the appellant provided substantial and convincing late evidence that both he and his wife satisfied the definition of travelling showpersons. This evidence had been readily available at the time the appeals were made. Had the evidence been provided with the appeal(s) the enforcement notice may have been withdrawn and the need for the appeals to proceed to the Hearing could have been avoided.

The response by Mr Martin Linn

5. There has been no unreasonable behaviour on behalf of the appellant. It was made clear that the appeal against reason for refusal 1 was being pursued and the Council could, if it so wished, have sought the evidence accordingly.

Reasons

6. 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.
7. The Planning Practice Guidance explains that appellants are required to behave reasonably in relation to procedural matters and that examples of unreasonable behaviour which may result in an award of costs include delay in providing information.
8. It was incumbent upon the appellant to provide the evidence in advance of the appeal Hearing and not to delay provision until the day of the Hearing, beyond the deadline for the submission of documents.
9. In the event, the appellant delayed the provision of convincing evidence that he and his wife met the definition of travelling showpersons until the last minute although the specific documentation would have been available at the time the appeals were made. Had the documentation been made available in a timely manner the Council would have been in the position of being able to withdraw the enforcement notice and/or invite a resubmission of the planning application.
10. The appellant therefore behaved unreasonably causing the Council to incur unnecessary costs in resisting the appeals and defending its position.
11. The appellant's argument that the Council could have specifically requested the information is without merit. It is the responsibility of the appellant to provide evidence in support of his/her case. The local planning authority is under no obligation to seek out information supporting the applicant/appellant's case.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Martin Linn shall pay to Chichester District Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Mr Martin Linn, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew Hammond

Inspector