
Costs Decision

Hearing held on 23 May 2017

Site visit made on 23 May 2017

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 1st August 2017

Costs application in relation to Appeal Ref: APP/G2713/W/16/3165207 OS Field 1856, unnammed road, Tamebridge

- 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 R Adams for a full award of costs against Hambleton District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the change of use of land to a private gypsy site and new access and siting of caravan and tourer.
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Decision

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

The submissions for Mr R Adams

2. The application for a full award of costs is made with reference to National Planning Practice Guidance (the Guidance). The appellant considers the Council to have behaved unreasonably with respect to the substance of the appeal by ignoring the additional need for gypsy and traveller sites arising from new household formation, particularly from the 25 households where an interview was not possible as part of the Hambleton District Council Gypsy and Traveller Accommodation Assessment update report 2016 (GTAA) and it was not possible to determine their gypsy status.
3. The GTAA advises that (should further information be made available to the Council that would allow the new definition to be applied) the overall level of need could rise by 6 additional pitches. The appellant contends that the Council was aware of this additional need from 'unknown' gypsies. Furthermore, the appellant is acknowledged by the Council to meet the definition of a gypsy and traveller set out in the Planning Policy for Travellers Sites (August 2015) (PPTS) Annex 1 and is one of the 25 households who were not interviewed. As such, the appellant considers that the Council has ignored evidence of additional need and acted unreasonably, and that this has led the appellant to incur unnecessary costs in the appeal process.

The response by Hambleton District Council

4. The Council regards the arguments made by the appellant to relate to paragraphs 1.20 to 1.21 of the GTAA (in relation to the revised pitch needs from 'unknown' gypsies and travellers) but points out that no mention is made of the subsequent paragraphs of this document. These suggest that since
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generally only between 10 to 20% of households who are interviewed actually meet the new definition, it is likely that only a small proportion of the potential need identified from these households (the 6 pitches) will need to be included in the GTAA. The Council estimates the resultant need to be as low as less than 1 pitch.

5. As such the Council considers that it has based its decision on an up to date evidence base that has been robustly prepared. It also advises that the determination of planning applications requires views to be formed that are not always agreed between parties. As such the Council does not accept that it has acted unreasonably.

Reasons

6. The Guidance advises that where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
7. It also states that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through unavoidable delay. Examples of behaviour which may lead to an award of costs against the local planning authority are also set out in the Guidance. These include failure to produce evidence to substantiate each reason for refusal on appeal.
8. As detailed in my main Appeal Decision, due to a number of factors, overall I have set out my view that it is likely that levels of need for gypsy and traveller sites in the district have been underestimated by the Council.
9. In terms of additional pitch needs arising from 'unknown' gypsies and travellers I have found that the GTAA's generalised assumption that only 10 to 20% of the 25 households not interviewed would meet the new definition in the PPTS not to be a robust assessment that can necessarily be relied upon to predict the need for any additional pitches. The fact that the appellant meets the PPTS definition, and is one of the 'unknown' gypsies and travellers who is in need of a site, adds to my view on this matter.
10. Nevertheless, whilst I question the assumptions made in the GTAA and the Council's interpretation of it, on balance, I can see that the Council has argued its stance on this particular matter with reference to the relevant evidence in the GTAA. This document was recently prepared by an experienced consultant who is an expert in this field and has worked previously in the district and I do not consider it unreasonable for the Council to rely on this as an evidence base in the first instance. The GTAA is relatively new and will be properly considered in its entirety as part of the forthcoming Local Plan process, but for now remains untested.
11. Thus, overall I am satisfied that the Council has set out the reasons why it does not consider there to be any need for gypsy sites in the district at the present time and adequately explained why it has come to this position in respect of any need arising from 'unknown' gypsy and traveller households.

12. I am also mindful the Council raises other objections to the proposal in terms of its access to services and facilities and impact on the character and appearance with reference to Policy DP14 of the Hambleton Local Development Framework Development Policies (LDF). Although I have found the site to be a reasonable distance from Stokesley, I have also concluded that some limited harm would be caused to the character and appearance of the surrounding area and that the proposal would be at odds with LDF Policy DP14 in this regard.
13. This being so, I am not convinced that the appeal could have been avoided, and overall am content that the Council has not prevented or delayed development which should clearly have been permitted, having regard to the development plan, national policy and any other material considerations.
14. I therefore conclude that the Council's behaviour has not been unreasonable and the appellants' costs in mounting the appeal were not unnecessarily incurred. Consequently, for the reasons given above, the application for a full award of costs is refused.

Elaine Worthington