
Costs Decision

Hearing Held on 1 June 2017

Site visit made on 1 June 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: 04 August 2017

**Costs application in relation to Appeal Ref: APP/A2280/C/16/3157450
Land adjacent to Gamerci, known as Harewood, Matts Hill Road, Hartlip,
Sittingbourne ME9 7XA.**

- 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 The Medway Council for a full award of costs against the administrators of the estate of John Peckham (deceased).
 - The hearing was in connection with an appeal against an enforcement notice alleging the material change of use of the land to a mixed use for the stationing of caravans for residential purposes and use for the storage of motor vehicles.
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Decision

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

The submissions for The Medway Council

2. The application was made in writing. The basic premise is that the appellant's representative acting on behalf of the administrators of the late appellant acted unreasonably in pursuing the appeal following the death of the appellant.
3. The development enforced against is located within the AONB and the original appeal was centred upon the personal circumstances of the appellant. Once those circumstances no longer existed the appeal stood no reasonable prospect of success, the development being environmentally unsustainable and contrary to the development plan, the National Planning Policy Framework and Planning Policy for Traveller Sites.

The response by the administrators of the estate of John Peckham (deceased)

4. Nothing done in the name of the appellant was unreasonable and an award of costs is not justified.
5. The Council's case is based on their interpretation of sustainability as including environmental issues.

Reasons

6. The Planning Practice Guidance advises that an award of costs may be made where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the

appeal process (PPG Reference ID: 16-030-20140306). Unreasonable behaviour in the context of an application for an award of costs may be either: procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal (PPG Reference ID: 16-031-20140306).

7. The National Planning Policy Framework (the Framework) is quite clear at paragraph 7 that there are three dimensions to sustainable development: economic, social and environmental. These three roles are carried forward into development plan policy and Planning Policy for Traveller Sites. The Framework sets out that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking; and that for decision-taking this means: approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted, for example those policies relating to land designated as an Area of Outstanding Natural Beauty.
8. The development which was the subject of the enforcement notice and appeal is clearly not in accordance with the development plan, or the Framework and PPTS. As the personal circumstances of Mr John Peckham (deceased) no longer carried any weight in the determination of the appeal following his death in February and there were no other matters raised which could reasonably be considered to be material considerations, or supporting evidence advanced, which would be sufficient to outweigh the conflict with policy, the appeal had no reasonable prospect of succeeding (PPG Reference ID: 16-031-20140306).
9. The administrators of the estate of John Peckham therefore acted unreasonably in pursuing the appeal following his death, resulting in unnecessary or wasted expense by the Council in the conduct of the appeal. A full award of costs is justified.

Costs Order

10. 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 the administrators of the estate of John Peckham (deceased) shall pay to The Medway 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.
11. The applicant is now invited to submit to the administrators of the estate of John Peckham (deceased), to whose agent 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