
Costs Decision

Hearing Held on 6 December 2016, 18 & 19 May 2017

Site visit made on 19 May 2017

by Lesley Coffey BA Hons BTP MRTPI

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

Decision date: 17th August 2017

Costs application in relation to Appeal Ref: APP/P1615/W/3148326 Greenacres, Gloucester Road, Corse, Gloucestershire GL19 3BY

- 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 Martin for a partial award of costs against Forest of Dean District Council.
 - The hearing was in connection with an appeal against the refusal of the Council to planning permission for the use of land for the stationing of caravans for residential purposes for 4no. additional gypsy pitches to include the formation of hardstanding and utility/dayrooms ancillary to that use in addition to the provision of a utility/day room on the existing gypsy pitch to be retained, granted in appeal decision APP/P1615/A/08/2089675 and the retained use of land for the stabling of horses in the adjacent paddock.
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Decision

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

The submissions for Mr Martin

2. The application was made in writing. The unreasonable behaviour relates to the late notification of the hearing to third parties by the Council.

The response by Forest of Dean District Council

3. The adjourned Hearing took place on 6 December 2016. The Council realised its error on 29 November 2016 when it wrote to local residents to advise them of the arrangements for the Hearing. The Planning Inspectorate was advised by telephone on the same day.
4. The Council accepts that it did not fully comply with the procedural 'guidance' it that it did not give interested parties two weeks notice of the arrangements for the for the Hearing. Notwithstanding this, had the inspector chosen not to adjourn the Hearing it could have been fully undertaken and no-one would have been disadvantaged since all of those present on 18 and 19 May 2017 had attended the previously adjourned Hearing.
5. Had the inspector chosen not to attend the hearing no-one would have been disadvantaged. Moreover, there have been less third parties attended the resumed hearing than in December.

Reasons

6. Irrespective of the outcome of the appeal, costs may only 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. Although *Procedural Guide Planning Appeals England* (August 2016), published by the Planning Inspectorate, has no statutory status, it provides guidance in respect of the Town and Country Planning (Hearings Procedure) (England) Rules 2000. All parties are expected to follow the general principles to ensure that no party is prejudiced and to ensure an efficient and fair appeals service.
8. The Council does not dispute that the notification letter was not sent out to local residents until 29 November 2016. The letter was received by local residents on Thursday 1 December, 3 working days before the Hearing. Given the limited time between residents receiving the notification letter and the commencement of the Hearing it would have been prejudicial to local residents had the Hearing proceeded. Whilst the Council states that all of those present on 6 December were able to attend on 18 and 19 May 2017, this is in fact incorrect. Moreover, it was not possible on 6 December to predict whether other parties wished to attend. Therefore to proceed with the Hearing at such short notice could have been prejudicial to interested parties. In these circumstances there was no alternative other than to adjourn.
9. The Council states that it telephoned the Planning Inspectorate to inform it of the situation on 29 November 2016, however, there is no record of any telephone call from the Council, and the Council was unable to name the person contacted. The first communication received by the Planning Inspectorate was an email on 5 December 2016. This did not refer to the delay in sending out the letter, it merely attached a copy of the letter. This delay, although unintentional, amounted to unreasonable behaviour on the part of the Council and gave rise to an unnecessary adjournment.
10. Mr Martin instructed Evans-Jones, a planning consultancy, to represent him, and Mr Campbell attended all three days of the hearing. Had the Council notified the inspectorate of the delay in a more timely manner, the hearing could have been postponed and Mr Campbell's attendance on the first day would not have been necessary.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

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 Forest of Dean District Council shall pay to Mr Martin the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in Mr Campbell attending the adjourned hearing on 6 December 2016; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Forest of Dean District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Lesley Coffey

INSPECTOR