
Costs Decision

Hearing Held on 15 October 2019

Site visit made on 15 October 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 4 November 2019

Costs application in relation to Appeal Ref: APP/H1840/W/19/3221290 The Paddocks, Comhampton Lane, Dunhampton, Ombersley DY13 9ST

- 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 Mrs Jones for a full award of costs against Wychavon District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for change of use of land to extend existing traveller site for a further pitch, including construction of utility block.
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Decision

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

The Submissions for Mrs Jones

2. The application had been made in writing and the Council's Rebuttal Statement had also been addressed. No further submissions were made at the Hearing.

The Response by Wychavon District Council

3. The Council's Rebuttal Statement had been submitted prior to the Hearing and no further submissions were made at the Hearing.

Reasons

4. The Planning Practice Guidance advises that parties in planning appeals and other planning proceedings normally meet their own expenses, but 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 (Paragraph: 028 Reference ID: 16-028-20140306). The appellant's application cites 4 examples from the Guidance where an award of costs may be made against a Local Planning Authority, and these will be considered as follows;
5. Paragraph: 047 Reference ID: 16-047-20140306 on behaviour that may give rise to a procedural award, bullet point 11; '*providing information that is shown to be manifestly inaccurate or untrue*'. This concerns an inaccuracy over the numbers of pitches in the vicinity, and the Council surmise that pitches and caravans have been confused. There does appear to have been confusion, but the numerical position should not be the only determining factor in any event, and the reference in Planning Policy for Traveller Sites on not dominating the nearest settled community does not attempt to put a figure on that either;

numbers may provide a basis for a judgement but little more than that. The area of land occupied and the numbers of caravans and structures were properly appreciated by the Council, and whilst the counting of caravans in some cases would have led to a conclusion of there being more people resident, that is just one component of the 'domination' judgement. There is no indication that this was the only matter relied upon and whilst the appellant describes this as an '*unfortunate mistake*', that is not unreasonable.

6. Paragraph: 049 Reference ID: 16-049-20140306 on behaviour which may result in a substantive award, bullet point 1; '*preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations*'. The Development Plan Policy SWDP17 contains criteria and although they do not all need to be met and many are in fact met or are not-applicable to the site location, the operation of the policy requires judgement. In particular criteria v and vii on visual impact and scale require an analysis and ultimately are a matter for judgement. The previous Inspector writing in 2018 made clear that the Decision to allow the additional pitches was taken on balance, with the reference to the 'tipping point' being near. It was not unreasonable for the Council to conclude that the appeal proposal would exceed that point, albeit not specifically referring to it.
7. *Ibid* Bullet point 3; '*vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis*'. There is a difference between far-reaching views and those likely to be available close-to and activity is more than just noise and disturbance. Here again there is a need for judgement and the Council's exercise of that judgement in the appeal case was not unreasonable. There is a cluster of traveller sites in the vicinity and the settled community includes sporadic dwellings, some relatively close to the site or likely to be affected by the additional traffic. Planning Policy for Traveller Sites does not define what might be 'domination' and the Council's assertion to that effect and the evidence put forward is not unreasonable.
8. *Ibid* Bullet point 7; '*not determining similar cases in a consistent manner*'. The fact that Officers recommended approval of the neighbouring proposal is of limited weight, as it is the elected members who made that decision. The Inspector's conclusions were on balance rather than being a complete repudiation of the Council's decision. The conclusion in paragraph 35 is to be noted; '*I must be clear that my findings on this do not set any sort of precedent for further developments of a similar nature. I have acknowledged that there are increasing cumulative effects, and these must be considered in light of the merits of any further proposals, should they be put forward*'.
9. To conclude, based on the facts of the case and the findings of the 2018 Inspector, it was not unreasonable that the Council should determine that the proposal was unacceptable as a matter of judgement and there is no firm evidence that the decision would have been different had the error over pitch numbers not been made. 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