



Costs Decision

Inquiry Held on 12 – 15 & 29 November 2019, 9 & 10 December 2019

Site visit made on 11 December 2019

by C Sherratt DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2020

Costs application in relation to Appeal Ref: APP/J1915/W/19/3234671 Land off Chapel Lane, Letty Green, Little Hadham, Hertfordshire SG11 2AB

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by The Residents of Little Hadham (Rule 6 Party) for a partial award of costs against Timothy Mahoney and Traveller Group (the appellant).
 - The inquiry was in connection with an appeal against the refusal of planning permission for the change of use of land to 10 pitches accommodating the siting of 10 mobiles homes and stationing of 10 touring caravans and 10 utility buildings. Formation of access road and hardstandings.
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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 Residents of Little Hadham (Rule 6 Party)

2. The submissions were made in writing and so I need not repeat them in full here. In brief, the application is made on the basis that the appellant's acted unreasonably by its provision in evidence of 4 separate access iterations which led the Rule 6 Party to incur unnecessary expense. There was no reasonable basis for producing separate access proposals and no explanation why the alternatives were produced or abandoned. The lack of any justification establishes the unreasonableness of the appellant's actions.

The response by Timothy Mahoney and Traveller Group

3. The response was made in writing and so need not be repeated in full. In brief, the appellant considers it was not unreasonable to offer alternatives but explains the error arising in terms of land ownership and that clarification saved Inquiry time.

Reasons

4. The Planning Practice Guidance (reference ID: 16-052-20140306) states that "introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen" may lead to a successful application for costs.
5. The various access iterations comprised (1) that contained in the application documentation (using the access within the appeal site); (2) that in the evidence of the highways witness (using part of the appeal site and part of the neighbouring owners land); (3) that in Mr Woods' rebuttal evidence (using the

access track on the neighbouring land entirely and then (4) returning, to the access within the appeal site within supplementary evidence.

6. Given the various options before the Inquiry the Rule 6 Party had to address them all. The first was dealt with in Mr Russell's proof of evidence, the second in his rebuttal; and the third was the subject of preparation before the Inquiry in order to be in a position to respond to it. The appellant clarified the position, returning to the access proposals put forward in the application documentation.
7. It was wholly appropriate for the appellant to offer clarity on which access option was to be pursued rather than waste Inquiry time addressing each. However, to have included various options in the various documents prepared for the Inquiry, only to withdraw them so late in the day, was unreasonable behaviour. By the time the appellant's advocate could clarify the position, the Rule 6 Party had prepared their evidence in order to address and respond to each. This resulted in unnecessary and wasted expense for preparatory work that would not otherwise have arisen.
8. 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

9. 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 Timothy Mahoney and Traveller Group shall pay to The Residents of Little Hadham (Rule 6 Party), the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in preparatory work relating to the alternative access options using part of the appeal site and part of the neighbouring owners land; and using the access track on the neighbouring land entirely; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Timothy Mahoney and Traveller Group, 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.

C Sherratt

INSPECTOR