



Costs Decision

Site Visit made on 13 April 2021

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 04 May 2021

Costs application in relation to Appeal Ref: APP/G2713/W/20/3256517 The Workshop, Stokesley Road, Brompton, NORTHALLERTON, DL6 2TY

- 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 Ms Caroline Bird for a full award of costs against Hambleton District Council.*
 - *The appeal was against a grant of planning permission to allow a second static caravan and an additional touring caravan to be sited on part of the land approved as a private gypsy site, subject to conditions.*
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Decision

1. The application for a full award of costs is allowed.

Reasons

2. Paragraph 030¹ of the *National Planning Practice Guidance* (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 051² of the PPG states that awards against appellants may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal.
4. The application sought to gain permission for a second gypsy pitch on a family owned site. This was to accommodate an additional family member, including and in the first instance, the appellant's grandfather, who would occupy the second static caravan. When this immediate need had ceased, it was anticipated that the pitch would be used by one of the appellant's four teenage children.
5. The officer's report recommends the imposition of condition 7 which sets out that within three months of the static caravan ceasing to be occupied by the appellant's grandfather, it would be available for occupancy by other members of the applicant's family. This was altered by Members to limit occupancy to the grandfather only. The application for costs advances the argument that there was no justification for this amendment, and that the Council ignored the key issue which is centred on the need for pitches, and failed to carry out an adequate balancing exercise.

¹ Reference ID: 16-030-20140306

² Reference ID: 16-051-20140306

6. The Council argues that the condition recommended by the case officer did not reflect the position put forward in the application. I agree that the supporting statement for this application focusses on the care needs of the grandfather. However, the statement also refers to the evidence submitted for a previous application dismissed at appeal for procedural reasons. This sets out clearly that the family is mindful of the its future housing need beyond the immediate care needs of elderly relatives. Furthermore, the description of development does not refer to a temporary development.
7. Moreover, although the applicant's evidence does not include a quantitative analysis of local gypsy housing need, it refers to a recent appeal which suggests that there is a lack of Council provision, that the current GTAA does not identify the true picture of housing need and that although the emerging plan is in its early stages, there will be no site allocations for gypsy sites. On this basis, it is difficult to reach a conclusion other than that there is some outstanding need for additional gypsy sites.
8. Nor does the officer's report provide any information to the contrary regarding local need or pitch provision. In fact, the officer's report finds no harm in relation to the relevant local policy which sets out the criteria for the siting of gypsy pitches, stating that *the additional static mobile home would meet the requirements of Policy DP14*. As such, I conclude that the Council failed to identify harm in relation to the provision of a second pitch.
9. The reason given for condition 7 is to enable the Council to undertake future assessments depending on the family's actual need at the time. However, the Council has failed to explain why an unrestricted pitch would be unacceptable on this site. This amounts to the imposition of a condition that is neither reasonable nor necessary to make the development acceptable in planning terms. This is contrary to the guidance set out in Paragraphs 54 and 55 of the National Planning Policy Framework.
10. As such I conclude that the Council has failed to explain why an unrestricted second pitch would be unacceptable in this location, and has therefore failed to justify the reasoning behind condition 7. Even if I accepted that the officer and Members were unaware that the family's long-term aim was to provide a second pitch on this site, the imposition of a condition would still require adequate reasoning and the mitigation of identified harm. This amounts to unreasonable behaviour which has led to additional and wasted expense at appeal.

Conclusion

11. In the light of the above, I conclude that there are omissions in the Council's reasoning and that this has led to the expense of the appeal. Unreasonable behaviour resulting in unnecessary or wasted expense at appeal has been demonstrated. A full award of costs is allowed.

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 Hambleton District Council shall pay to Ms Caroline Bird, the costs of the appeal proceedings described in the heading of this decision limited to those costs

incurred in the appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to Hambleton 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.

A Blicq

INSPECTOR