
Costs Decision

Site visit made on 7 July 2021

by **B.S.Rogers BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 July 2021

Costs application in relation to Appeal Ref: APP/N2739/X/21/3268396 Sycamores Retreat, Moor Lane, Ryther, LS24 9EP

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr J.Crickmore for a full award of costs against Selby District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the proposed use of land within the existing caravan site boundaries for the siting of static caravans up to a maximum of 26 caravan units on the site at any one time.
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Decision

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

Reasons

2. The appellant submits that the Council unreasonably failed to take account of established case law and has not properly evaluated the proposal or justified its stance. The Council introduced a number of irrelevant matters, such as the question of a change from holiday to permanent occupancy when that was never part of the proposal.
3. The Council relies on its view that condition no.08 of the relevant planning permission (ref: 2016/0557/COU) limits the layout and the number of caravans permitted on site. I note that much of the Council's response to the costs application relates to the long time taken to deal with the planning application, which was not a matter raised by the appellant.
4. The Planning Practice Guidance advises that costs may 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.
5. The Council did not seek to argue that the proposal would amount to a material change of use, which appears to accord with the appellant's case. From this starting point, the appellant drew the Council's attention to relevant case law in *I'm Your Man*¹ and *Cotswold Grange Country Park*² in his application statement of November 2019. However, the Council does not appear to have addressed either of these in its appraisal of the application or in response to the appeal.
6. Instead, the Council simply put forward an alternative line of argument, relying on the continuing effect of condition no.08. However, it failed to justify this

¹ *I'm Your Man v SSETR* [1999] P&CR 251

² *Cotswold Grange Country Park Ltd v SSCLG & Tewkesbury BC* [2014] EWHC 1138 Admin

approach in the face of relevant case law. Nor did it submit a cogent argument as to why the appellant's interpretation of this case law should not prevail.

7. Although the onus is on the appellant to demonstrate his case, on the balance of probability, the Council has a responsibility to respond to the appellant's case and to justify why it was not persuaded that an LDC should be granted. Its failure to do this was, to my mind, unreasonable and has led the appellant to incur the unnecessary expense of pursuing an appeal.

Costs Order

8. 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 Selby District Council shall pay to Mr J.Crickmore, 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.
9. The applicant is now invited to submit to Selby 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.

B.S.Rogers

Inspector