



Costs Decision

Hearing Held on 26 July 2022

Site visit made on 26 July 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2022

Costs application in relation to Appeal Ref: APP/X0360/W/22/3296519 23A Nine Mile Ride, Finchampstead RG40 4QD

- 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 J Stanley for a full award of costs against Wokingham Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for use of land for two Gypsy and Traveller pitches.
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Decision

1. The application for an award of costs is refused.

The submissions for Mr J Stanley

2. In support of the application, reference is made to the Planning Practice Guidance (PPG). In particular, the bullet points in paragraph 049 which refer to (i) persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable, and (ii) not determining similar cases in a consistent manner.
3. The appellant produced a Transport Statement following which the Council withdrew one of its refusal reasons. Costs have been incurred in producing the Transport Statement. No highway safety concerns were raised by the Inspector in respect of the existing Gypsy and Traveller site to the front of the appeal site and no objection was raised to the access.
4. The appellant has agreed to planning conditions in respect of access but the refusal reason in this regard has had to be addressed. Manual for Streets has been issued since the previous appeal decision but the appellant is not aware that emergency vehicle sizes have since changed.
5. Concern is raised in the appellant's appeal statement that there is no requirement for evidence to show a general need for Gypsy and Traveller sites. The Council has made other decisions in relation to similar proposals without need being evidenced and where it has been more proactive.

The response by Wokingham Borough Council

6. Since the original appeal decision referred to by the appellant, Manual for Streets has been introduced and there has been a greater intensity in the use of the site and access. During the hearing, the Transport Statement has been referred to and so its contents have been relevant to the discussion. Also, the

appellant agrees to a condition that requires the widening of the access drive and so accepts that works are needed to accommodate emergency vehicles.

7. In respect of the need point, the Council officer's report on the planning application leading to the appeal recognises that any additional pitches would help meet the statutory duty and would create greater flexibility. This is a consistent position regarding need with each application assessed on its own merits and the circumstances of the site. The 2 other decisions referred to by the appellant relate to existing sites, not a new site. It is appropriate for the Council to consider harm to the character of the area and other issues. Also, it is right for the Council to weigh the various factors differently depending upon the particular case.

Reasons

8. The PPG advises that costs may be awarded against a party who has behaved unreasonably and so caused the costs applicant to incur unnecessary expense in the appeal process.
9. The appellant claims no objections in respect of access were raised by the Inspector who granted planning permission for the existing Gypsy and Traveller pitch next to the appeal site. This previous appeal decision has not been submitted and so I am unaware of any comments the previous Inspector might have made in these regards.
10. In any event, I am advised that this previous appeal decision was made in 2005, before the adoption of the Wokingham Borough Core Strategy in 2010 and the publication of the Wokingham Borough Design Guide in 2012. The Council refers to both of these documents in support of its concerns regarding access. It is clear the previous Inspector did not consider the appeal for the existing site against the same planning policies. That decision would have been made having regard to the planning policies in place at the time, details of which are not before me. As such, I am unconvinced from the evidence that the Council was bound to arrive at the same view as the previous Inspector on the issue of emergency vehicle access.
11. Furthermore, the previous Inspector was considering a different scheme on a different site compared to the current appeal. The proposed development would lead to additional traffic and potential emergency vehicle usage compared to the existing situation with the adjoining Gypsy and Traveller pitch already established. Therefore, there are differences to the context to the proposed development compared to that which existed when the previous appeal was determined. As such, I am satisfied that the Council's objections regarding access are reasonable, despite no such concerns being raised previously in respect of the adjoining development.
12. The Council's objections relating to the character and appearance of the area, living conditions and emergency vehicle access all refer to specific aspects of the appeal site and the proposal. The other permissions referred to by the appellant relate to different sites and schemes. These would have their own characteristics and merits that would be different to the current appeal development. As such, there can be no reasonable expectation that the Council would grant planning permission for the proposal simply because of the previous developments it has allowed.

13. Moreover, the Council do not object to the appeal scheme because of a lack of need for the proposed Gypsy and Traveller pitches. The Council's submissions on this issue have been provided in response to the appellant's case that there is a general need for sites and not to show failure to accord with any planning policy. There is no convincing evidence of an inconsistent approach in the Council's assessment of the appeal development compared to previous planning applications for other Gypsy and Traveller sites.
14. For the above reasons, I conclude that the costs application fails to demonstrate unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG. Therefore an award of costs is not justified.

Jonathan Edwards

INSPECTOR