



Costs Decision

Inquiry Opened on 10 January

Site visit made on 10 January

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 7 February 2023

Costs application in relation to Appeal Refs: APP/H1515/C/20/3248911, C/22/3298928 & W/20/3248930

Land lying to the East side of Five Acre Farm, Warley Street, Great Warley, Brentwood, Essex, CM13 3JZ

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Brentwood Borough Council for a full award of costs against Mr Patrick Moran.
 - The inquiry was in connection with appeals against an enforcement notice alleging the material change of use of the land to a gypsy caravan site and a refusal of an application for the same development.
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Decisions

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

The case made by the Council

2. The appellant's failure to provide information in advance about the children on the site and the medical histories of the occupants has severely prejudiced the Council, preventing them from carrying out necessary checks and extended the time taken for cross-examination. Documents that were produced were either only a few days before the inquiry started or during the inquiry itself. The statement of common ground (SoCG) was not agreed and that also could have reduced inquiry time, especially when discussing the GTAA. The case was clearly a no-hoper with no very special circumstances and should never have been pursued.

The response by the Appellant

3. The appellant is not required to provide any information at all. How he presents his case is a matter for him. Representatives of all the occupiers of the 8 plots provided personal statements, were offered as witnesses and were cross-examined. Documentary evidence was provided about children and health issues. The SoCG was prepared by the appellant, amended by the Council and amended again by the appellant. It was clear there was little common ground. Clearly not a no-hoper case, the judgement on very special circumstances is for the Inspector. The Inquiry actually finished 1 day ahead of schedule and the first week was prolonged only by the badgering of witnesses by the Council's counsel.

Conclusions

4. I agree that how the appellant presents his case, and what external verification he provides is entirely up to him. However, in this appeal there was no reason why the various letters that were obtained from local schools or the medical records could not have been provided months ago. I accept that many of the occupants were uncomfortable with the written word and did not have large studies where they could store all the various documents that pertain to modern life, but that is not the point. They did have some documents and they did ask for others to be provided. Why that was only done within the last few weeks and not when it was first requested over a year ago at the first pre-inquiry meeting was not explained. The fact that this is typical of gypsy appeals is also not the point. There may be a good reason for not having paper documents but there is no good reason for not providing the ones they do have promptly.
5. Nevertheless, the Council were able to deal with the documentation as it arrived and what adjournments there were, were accommodated within the timetable. I can't see that more investigation would have led to less questioning and the inquiry was not longer than it need have been.
6. The lack of a SoCG is always annoying, but given that it was obvious the parties could agree on very little and in particular the GTAA discussion was needlessly complex and at times opaque, I doubt that further work on the SoCG would have been time well spent.
7. The appeal was not a no-hoper, in a council area that is nearly all green belt and where there is a shortfall of sites green belt appeals are inevitable and can succeed depending on the various factors that come into play.

Conclusions

8. Although there was unreasonable behaviour it did not lead to unnecessary expense and an award of costs is not justified.

Simon Hand

Inspector