



Costs Decision

Hearing Held on 31 January 2023

Site visit made on 1 February 2023

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Costs application in relation to Appeal Ref: APP/L3815/W/20/3254259 Old Allotment Site, Newells Lane, West Ashling PO18 8DD

- 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 F Smith for a full award of costs against Chichester District Council.
 - The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the use of land for the stationing of a caravan for residential purposes, together with the formation of hardstanding.
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Decision

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

The submissions for Mr F Smith

2. The application for costs was made in writing prior to the Hearing. The essence of the appellants application is twofold. Firstly, that following the receipt of their valid application on 27 November 2019, the Council requested additional survey information, having given an indication that the development would be acceptable. They then indicated that they would refuse the application. This the applicant contends has caused delay and resulted in additional costs.
3. Secondly, the Council's position regarding the effect of the development on the settled community was unreasonable in the light of the appeal decision APP/L3815/W/19/3220300.

Chichester District Council

4. The Council have not formally responded to the application for costs.

Reasons

5. Parties in planning appeals and other planning proceedings are normally expected to meet their own expenses. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
6. There were 3 reasons indicated by the Council as to why they would have refused the application. The first reason relating to the location of the development was not pursued at the Hearing following a recent appeal

decision. The remaining reasons essentially distilled into the issues I have identified in the appeal decision.

7. Turning to the substantive matters at issue, following the receipt of the valid application on 27 November 2019, Council officers indeed requested an ecology survey and subject to this being acceptable gave an informal indication of a positive recommendation. However, following receipt of the survey the application was then deferred from a number of committee meetings. I have no substantive information of the reasons for these deferrals, but after some considerable time, on 12 June 2020 officers then advised that the application was to be refused.
8. To my mind it was not unreasonable for the Council to give the applicant the opportunity to submit the results of an ecology survey to support his application, even though the final recommendation was to refuse it for other reasons. The recommendation is one which is a matter of judgement and the Council are not bound by any informal advice given by their officers. That said, I understand the sense of frustration which delays and changes in advice can have.
9. Regarding the applicant's second point, the PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
10. I acknowledge that the Inspector in the above appeal decision considered that, the proposal would be relatively modest both numerically and in terms of area, when compared with the settled population. In contrast for this appeal, the Council are less reliant on numerical data, asserting that the cumulative effect of the developments have an unacceptable impact on the rural character of the area, such that it dominates the existing settled community.
11. My decision makes it clear that I have taken a different view to that of the Council on the individual and cumulative effect of the development on the character and appearance of the area and settled community. Nonetheless, the Council defended their position in their appeal statement and at the Hearing. As matters of planning judgement the Council's arguments were not without merit.
12. Accordingly, on the basis of the information before me, I do not consider that the Council's position was unreasonable, either in the procedure leading up to, or during the appeal, such that the applicant has incurred unnecessary or wasted expenses.

Conclusion

13. Overall and for the above reasons, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated in this instance. Accordingly, I refuse the application for an award of costs against the Council.

Hilary Orr

INSPECTOR