



Costs Decision

Inquiry held on 8 March 2022, 14 and 20 June 2022, 30 and 31 January 2023, 1 and 2 February 2023, 1 March 2023 and 24 April 2023

Site visits made on 28 February 2022 and 6 February 2023

by Peter Rose BA MRTPI DMS MCMI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2023

Costs application in relation to Appeal Ref: APP/J1915/W/20/3262192 Land at Millfield Lane, Bury Green, Little Hadham SG11 2ED

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by East Herts Council for a partial award of costs against Mr J Connors.
 - The Inquiry was in connection with a refusal of planning permission for creation of a four pitch Gypsy/Traveller site comprising the siting of one mobile home, one touring caravan, and the erection of one dayroom on each pitch, and the formation of an internal track and hardstandings.
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Decision

1. The application for a partial awards of costs is refused.

The submissions for the Council

2. The application is for a procedural award principally in response to the appellant's unreasonable behaviour during that part of the Inquiry between Monday 30 January 2023 and Friday 3 February 2023.
3. On Monday 30 January 2023, the appellant's team joined the Inquiry late not appreciating a 9.30am resumption. The appellant's witnesses were then unable to connect virtually from the USA, and a new Teams link was required.
4. The appellant's landscape witness was significantly late joining the Inquiry on another day when due to give evidence, apparently being held up in traffic.
5. There were also periods during the Inquiry, for example, on 1 March 2023, when the appellant's barrister made unreasonably hopeless applications for adjournments which were unsuccessful and in themselves wasted more time.
6. This resulted in significant periods during the Inquiry when it was unable to proceed. The overall length of the Inquiry was protracted beyond its programmed time with added expense for the Council.

The response by Mr Connors

7. Mr Connors does not accept any lost Inquiry time due to unreasonable conduct on his behalf.

Reasons

8. The Planning Practice Guidance (the 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.¹
9. The Guidance identifies possible unreasonable behaviour by an appellant to include failing to attend or to be represented at an Inquiry without good reason, and prolonging the proceedings by introducing a new ground of appeal or issue.² It further advises that all parties are expected to behave reasonably to support an efficient and timely process.³
10. There were technical connection difficulties relating to the on-line format on 30 January. I also experienced some similar difficulties and, whilst the source of the appellant's issues is disputed by the parties, I am in no position to judge.
11. The landscape witness was delayed, and the initial understanding given to the Inquiry was that he had been involved in a vehicle accident. It subsequently transpired the witness had no direct involvement in the incident, but was merely delayed in traffic as a consequence. I accept such delay could not have been reasonably avoided.
12. Significant time was spent considering the appellant's various requests and concerns and, whilst not always supported, such discussions are part of the Inquiry process.
13. Time was lost at points during the Inquiry but, on balance, I do not consider those losses to have been a direct consequence of unreasonable behaviour on the part of the appellant.

Conclusion

14. I therefore find that unreasonable behaviour on the part of the appellant resulting in unnecessary or wasted expense incurred by the Council, as indicated in the Guidance, has not been demonstrated. Accordingly, I conclude that a partial award of costs is not justified in this instance.

Peter Rose
INSPECTOR

¹ Paragraph: 028 Reference ID: 16-028-20140306

² Paragraph: 052 Reference ID: 16-052-20140306

³ Paragraph: 028 Reference ID: 16-028-20140306