



Costs Decision

Inquiry (Virtual) held on 13 September 2023

Site visit made on 14 September 2023

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Costs application in relation to Appeal Ref: APP/P1133/X/23/3320991 Park Hill Caravan Park, Moor Road, Ipplepen, Newton Abbott TQ12 5TT

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ross Park Homes Ltd for a full award of costs against Teignbridge District Council.
 - The inquiry was in connection with an appeal against the refusal of a certificate of lawful use or development (LDC) for "alteration to part of caravan site to alter the existing use of caravan site with 110 touring and 40 static caravans, amenity areas and ancillary facilities to a caravan site with 110 touring and 55 static caravans, amenity areas and ancillary facilities' would be lawful."
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Decision

1. The applications for awards of costs are refused.

Preliminary Matters

2. Prior to the inquiry and the deadline for the submission of proofs of evidence, I sent a note to the parties setting out some of my preliminary views on the case. Within that, I also strongly suggested that the case did not warrant a public inquiry but the applicant for costs did not agree. Whilst the Council considered that a hearing would be necessary, I am still of the view that the case could have been satisfactorily dealt with via the written representations procedure saving everyone involved costs and time.
3. The inquiry was closed in writing on 5 October after I had received this cost application in writing. I do not need therefore to repeat the cases here.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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 reason for refusing the application had simplistically referred to the only lawful use of the application site being as recreation and amenity land. That was based upon an assessment that a new planning unit had been created. Whilst I did not agree with that position, the Council in their defence of the appeal referred to the matters that I needed to take into account. This included an explanation of the factors to consider when determining whether an intensification of a use would result in a material change of use. Those matters are largely matters of fact and degree which will be for the decision

maker to consider in the round.

6. The Council's planning witness at the inquiry assisted my understanding of these matters. The consideration of the secondary access into the site was also relevant and the Council were not wrong to pursue that line of cross examination. The Council's witness had shown some confusion about the requirements for showing site areas and other land with respect to Lawful Development Certificate (LDC) applications. The advice for planning applications within the PPG was incorrectly referred to. However, their interpretation was not decisive in how the Council had considered the LDC application overall. There has also been inconsistency in what land has been shown on the plans for previous LDCs at the site with the 2019 application showing land where the secondary access is located within the applicant's ownership whereas other applications, including that which is the subject of the appeal, not showing it.
7. The applicant also suggests that the Council has mis-applied case law relating to interpretation of how the use of caravans may or may not be restricted. During the particular line of cross-examination by the applicant's advocate on this point, the Council's witness was asked to look at the documents that were submitted with and LDC applications in 2020. However, for reasons that I have set out in my decision, much of this seemed unnecessary as the relevant LDC is not ambiguous with respect to the use of the appeal site overall. The Council, did veer at times into matters concerning the type of residential occupation of the existing static caravans on site which was not entirely material to what I had to consider, given the terms of the application and the background history. However, this was not completely clear-cut given that the use of part of the site may well be how the applicant intends to use the remainder of the site even though that is not explicitly what they applied for.
8. Overall, the crucial parts of the appeal decision relied upon judgements based upon assessing matters of fact and degree. The documentation that had been submitted in support of the respective cases had set out both parties' points of view in a manner that helped me understand them, even if I did not agree with them. Importantly in this case, I could set the representations in proper context once I had visited the appeal site.
9. The PPG makes it clear that for a successful award of costs, it is necessary to show that a party has both acted unreasonably and that the unreasonable behaviour has directly caused another party to incur wasted expense. In this case, the Council had drawn attention to matters that were relevant for me to consider in making my determination and which had clarified some relevant matters. I didn't agree with their interpretation, but they were largely matters of judgement that were not unreasonable or clear-cut.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Andy Harwood

INSPECTOR