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## Costs Decision

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

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### **Costs application in relation to Appeal Ref: APP/P1133/X/22/3308019 Ross Park Caravan Park, Moor Road, Ipplepen, Newton Abbot TQ12 5TT**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 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 appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a certificate of lawful use or development (LDC) for the proposed "use of the land for the siting of touring caravans, the touring caravans may remain sited throughout the year and be occupied for human habitation of any type including as a person's sole or main place of residence."

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### **Decision**

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

### **Reasons**

2. 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.
3. The PPG explains that the aim of the costs regime is to encourage all of those involved in the *appeal process* [my emphasis] to behave in a reasonable way. Costs can only be awarded in relation to unnecessary or wasted expense *at the appeal* [again my emphasis], although behaviour and actions at the time of the planning application can be taken into account in considering whether or not costs should be awarded.
4. The Applicant's frustration with the Council's failure to determine the application is entirely understandable, particularly in the light of having agreed an extension to the timetable. There is, however, statutory redress for applicants who find themselves in this unfortunate position: s.195(1)(b) of the 1990 Act provides that if the Council does not give notice of its decision on the LDC application within the prescribed period (or within such extended period as may have been agreed between the parties), the Applicant may appeal to the Secretary of State. The Applicant in this case utilised that statutory provision, and lodged the appeal to which this costs application relates.
5. In my view the fact that an Applicant has submitted an appeal against non-determination is not, in and of itself, sufficient to warrant an award of costs against a Council: rather, it is necessary to look at the circumstances of each case to determine the extent, and consequences, of any unreasonable behaviour. For example, if the Council failed to defend the appeal, or indicated after the appeal was lodged that it would have allowed the application, then

there would be grounds for concluding that the whole appeal was unnecessary and the expense of it could have been avoided. However, in this case the Council made it clear, at the appropriate stage of the appeal, that it would have refused the application. It also provided cogent and sufficient reasoning to substantiate its decision.

6. The Council's failure to meet the agreed deadline was lamentable, as was its failure to engage with subsequent requests for updates on progress. But these are failings which occurred at the application stage, rather than during the course of the appeal, and do not form part of any wider pattern of unreasonable behaviour that has affected the appeal process.
7. I note the Applicant's contention that it was unreasonable of the Council to seek to import the word "holiday" into the description of the development. However, my understanding of the case set out in the Council's Appeal Statement is not that it seeks to import any additional word(s) into the description of the development, but instead places weight on the presence within that description of the term "touring caravans", which serves to define the character of the use permitted. I see nothing unreasonable in this approach: indeed, it is the approach I adopt in my decision on the appeal.

### **Conclusion**

8. I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred, and an award of costs is not justified.

*Jessica Graham*

INSPECTOR