



Costs Decision

Inquiry held on 15 to 17 November 2023 and 18 December 2023

Site visit made on 17 November 2023

by D Moore BSc (HONS), PGDip, MCD, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 January 2024

Costs application in relation to Appeal Ref: APP/N1730/C/23/3325889 Land at Paynes Cottage, Potbridge, Odiham, Hook, Hampshire, RG29 1JW

- 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 Hart District Council for a partial award of costs against Saron Enterprises Limited.
 - The inquiry was in connection with an appeal against an enforcement notice alleging the material change of use of the Land.
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Decision

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

The submissions for Hart District Council

2. The costs application was submitted in writing. The Council claims the appellant has acted unreasonably by failing to comply with procedural requirements through extending the remit of their case and by failing to provide the finalised witness evidence prior to the relevant deadline.
3. The following points were made orally. The Council maintained that additional expense was incurred as it was necessary to provide a Proof of Evidence at short notice to deal with the new matters raised. This necessitated more involvement from Counsel than would otherwise have been required.

The response by Saron Enterprises Limited

4. The appellant responded in writing. It was argued that, had their case regarding local plan policies been made in the Statement of Case, then there would have been a need for the Planning Policy and Economic Development Manager to provide a Proof in any event. The Council has not, therefore, incurred any unnecessary cost. Also, there was no rebuttal Proof to deal with the temporary planning permission, so no additional costs were incurred in respect of that matter.
5. In relation to the witness statements, the Inspector accepted the assurances that no changes had been made and no adjournment was required. As a result, there was no additional cost or prejudice to the Council.

Reasons

6. 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.
7. While it was suggested that the witness statements may be subject to amendments on the day of the Inquiry, this did not occur. The statements did not change from the draft versions submitted and there was no prejudice. As such, I do not find this constitutes unreasonable behaviour.
8. However, the appellant introduced additional planning arguments in relation to the ground (a) appeal. This included the development plan and whether the most important policies are consistent with the National Planning Policy Framework, and that the appellant would be seeking a temporary planning permission for seven years as an alternative scheme.
9. I consider that the failure to set out the full case that the appellant intended to put forward at the Inquiry is unreasonable because the Council was unable to address those matters in the Proof provided by the Development Management Team Leader, Mrs Goldberg. Consequently, the Council had to arrange for the Planning Policy and Economic Development Manager, Mr Hawes, to consider the arguments and produce an additional Proof of Evidence at short notice.
10. It is explained that Mrs Goldberg was unable to deal with the policy arguments as she works in enforcement. On that basis, it is highly likely that Mr Hawes would have been required to produce an additional Proof had the matters been raised at the statement stage.
11. The Council maintained the short notice incurred additional expense as it was necessary to engage Counsel to assist in the preparation of the additional Proof and a rebuttal Proof. However, it does not follow that Counsel's extended involvement incurred more expense than would have been accrued had Mr Hawes been involved from the outset. Mr Hawes may have taken more time than Counsel to prepare the counter arguments, and a level of oversight would still have been required.
12. The temporary planning permission alternative position did not lead to any rebuttal and would not have incurred unnecessary expense.
13. Overall, I am not satisfied that the appellant's failure to make the ground (a) case in full resulted in unnecessary or wasted expense.

Conclusion

14. Unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

D Moore

Inspector