



Costs Decision

Site visit made on 19 September 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

Costs application in relation to Appeal Ref: APP/Y3940/W/24/3339487 Orchard Paddock, Main Road, Christian Malford, Wiltshire SN15 4BA

- 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 Wiltshire Council for a full award of costs against Mr J Ward.
 - The appeal was against the refusal of the Council to grant subject to conditions planning permission for the erection of replacement dwelling and garage.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 right of appeal is a statutory right, however, the PPG states that the right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal has no reasonable prospect of succeeding. This may occur when the development is clearly not in accordance with the development plan, and no other material considerations are advanced that indicate the decision should have been made otherwise or where other material considerations are advanced, there is inadequate supporting evidence.
4. The appellant acknowledges that the proposed development conflicts with the settlement and delivery strategy outlined in the Wiltshire Core Strategy. However, he contends that other material considerations outweigh this conflict.
5. Planning permission was granted on appeal¹ in 2004 for the use of the site as a Gypsy caravan site. The appellant in paragraph 5.10 of their Statement of Case contends that this description is incorrect and the 2004 case was not based on the need for Gypsy accommodation.
6. The proposal was advanced on the specific needs and circumstances of Miss L Ward, who at that time identified as a Gypsy. It is evident from paragraph 6 of the Inspector's Decision that the appeal was determined and allowed on the basis of Miss L Ward meeting the statutory definition of a Gypsy. The site therefore constitutes a Gypsy caravan site and its status as a settled base

¹ APP/J3910/A/04/1137217

solely for Miss L Ward does not diminish this fact. In my view the appellant's position in regard to this matter is untenable.

7. Whilst the appellant contends that the static caravan on site constitutes a building this is not supported by any substantive evidence to clearly demonstrate that it has a degree of permanence or that it is no longer being capable of being moved, irrespective of the length of time it has been in situ. The appellant has made reference to other appeal decisions and legal judgements, however, there is nothing to indicate how they are relevant to or comparable to the scheme subject of this appeal. As such, they are of limited weight. The onus is on the appellant, as the one spearheading the scheme, to present full and detailed information in order for the decision maker to make an informed decision.
8. As can be seen from my decision the appellant has also misinterpreted the Council's housing land supply position in light of the National Planning Policy Framework and in respect of the need for a sequential test.
9. The right of appeal was not exercised in a reasonable manner as inadequate supporting evidence was advanced as material considerations to address the conflict with the development plan. The appeal, therefore, had no reasonable prospect of succeeding. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs in favour of the Council is therefore warranted.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr J Ward shall pay to Wiltshire Council, the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. Wiltshire Council is now invited to submit to Mr J Ward to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

B Thandi

INSPECTOR