



Costs Decision

Inquiry held on 26 and 29 November, 5, 6, 9 and 10 December 2024 and 20 January 2025

Site visit made on 25 and 28 November 2024

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th January 2025

Costs application in relation to Appeal Ref: APP/M3645/W/23/3331609

Land North of Effingham Road, HORLEY, RH6 9RP

- 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 Ms Charlotte James for a partial award of costs against Tandridge District Council.
 - The inquiry was in connection with an appeal against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The development proposed is described as 'change of use of land to a Gypsy and Traveller caravan site and erection of 6 Day Room Chalets'.
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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. In this case the applicant submits that the Council's failure to undertake the necessary notification before the Inquiry opened was unreasonable behaviour that resulted in unnecessary or wasted expense. The applicant considers the lack of notification to be unreasonable behaviour as it is a requirement of the Rules¹ and failure to do so led to a postponement of the Inquiry. It is suggested that the costs incurred related to a loss of a day, that being the first day of the Inquiry.
4. The Council agree that the failure to undertake the necessary notification was unreasonable behaviour. Indeed, the Planning Practice Guide indicates that this is a type of unreasonable behaviour that can result in an application for an award of costs². However, the Council submit that the postponement of the Inquiry did not result in unnecessary or wasted expense when the specific circumstances are considered.
5. Before it materialised that the notification had not been sent out in time, the applicant had requested a postponement of the Inquiry to address the late evidence submitted by the Council under the cover of rebuttals. In responding to the

¹ The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules.

² Paragraph: 047 Reference ID: 16-047-20140306

applicant's request for a postponement, I gave a strong indication that if the Inquiry opened it would likely be adjourned immediately because of the failure to correctly notify interested parties. Thus, the applicant had an early sign of my preliminary thinking that an adjournment would be necessary.

6. In response to this, the applicant's team and the Council discussed matters and reached agreement that the Inquiry should be postponed. This was the outcome the applicant had originally been seeking, albeit not for the reasons advanced. The email requesting the postponement confirmed that such an approach would avoid the unnecessary costs of attending the Inquiry.
7. As a result of this, the applicant's team would have been able to anticipate the postponement of the Inquiry before I formally confirmed this the day before it was due to open. Furthermore, any preparation would have been carried over and would not have been wasted, and travel arrangements could have been cancelled. This is not a situation where a team of experts were already in attendance when the postponement occurred. The prompt actions of both the Council and appellant in discussing a postponement avoided that.
8. Importantly in this instance, the applicant's team could have used the 'free day' created by the postponement to work on the case. They had already indicated an intention to respond to the Council's rebuttals. Indeed, I had specifically invited them to do so, highlighting the Council's case regarding the need for a sequential test and matters raised by its landscape consultant. The postponement effectively created a welcome gap in their busy diaries to start working on these points. It would have been fortuitous that the applicant's team were available on the same day to discuss their next steps in respect of the evidence they ultimately submitted³.
9. Accordingly, I find that although the failure to carry out the notifications was unreasonable behaviour, the circumstances are such that in this instance it did not result in unnecessary or wasted expense for the applicant.

Conclusion

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

Graham Chamberlain
INSPECTOR

³ A Flood Risk Assessment and rebuttals from Mr Woods and Mr Hurlstone