



Costs Decision

Hearing held on 30 January 2025

Site visit made on 29 & 30 January 2025

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Costs application in relation to Appeal Ref: APP/H1840/W/24/3351881

Land south of A44, Worcester Road, Evesham, Worcestershire WR11 4TD

- 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 Mr James Carroll for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission for use of land for the stationing of caravans for residential purposes.
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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. Claims can be procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal. In this instance, the claim is based on substantive grounds. The applicant argues that there were no substantive reasons to justify refusing the application, and the Council failed to produce evidence to substantiate its reasons for refusal, acted contrary to established case law and did not review its case promptly, following the lodging of the appeal as part of ongoing case management. It is therefore put to me, that the Council delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other material considerations.
4. The Council had set out in its officer report that the previous holiday cabins permission on the site was a material consideration. However, it found that there was a material difference between the holiday accommodation and permanent (gypsy and traveller) residence. In this context, not referring to the holiday cabins permission in the decision notice is not unreasonable.
5. The Council substantiated its position during discussions in the Hearing, referring to the guidance in its Landscape Character Assessment, differences in occupation and how the acoustic fencing was proposed as part of the application. Whilst the applicant disagrees, considering such matters relate to planning judgement, this is not an unreasonable approach. It will be seen from my decision that I have also found there to be differences between the holiday cabins permission and the appeal scheme.

6. In this regard, notwithstanding the Council's position regarding the commencement of works in relation to the holiday cabins permission, and the applicant's evidence and references to case law, I do not find that this has led to wasted expense in the appeal as it was not a determinative matter within the Council's assessment.
7. The Council's second reason for refusal referred to the location within open countryside but the crux of its concerns related to the Council considering that occupiers would rely on private vehicles due to its location. This was articulated clearly, and it will be seen from my decision that I agree that future occupiers would rely on private vehicles. It was not therefore unreasonable to refer to conflict with Policies SWDP 4 and 17 of the South Worcestershire Development Plan (SWDP) in this context.
8. The Council did not address the applicant's points regarding the relationship and consistency between the Planning Policy for Traveller Sites (PPTS) and its policies in its Hearing Statement letter. However, it did outline its position in the Hearing, and I have no reason to consider that it had no regard to the PPTS in reaching its conclusions.
9. The applicant provided a large amount of evidence in the appeal and the Council did not address all the points raised. Nonetheless, the Council placed an emphasis on the sites location within the landscape character type, the differences between the holiday cabins scheme and the lack of alternatives to private vehicles and conflict with its adopted development plan policies. Accordingly, irrespective of the outcome of the appeal, I do not find that the Council behaved unreasonably relative to the main issues, given the subjectivity of these matters, and the planning balance and judgements made.
10. The Council had referred to the lack of personal circumstances as part of its second reason for refusal. During the Hearing, the Council clarified that it was not its intent to frame the lack of personal circumstances as a reason. Instead, it was the Council's position that no personal circumstances had been advanced during the application to consider whether they might overcome the harm it had identified.
11. Whether or not this was the Council's intent was not determinative in any case and the applicant advanced personal circumstances during the appeal for my consideration in the alternative that I had found an unrestricted site without an occupancy restriction to be unacceptable. Accordingly, I do not find the Council referring to personal circumstances in its decision notice to have led to wasted expense in the appeal.
12. It is put to me that the Council did not review its case following the receipt of the applicant's appeal. Between refusing the application and the Hearing, an updated National Planning Policy Framework (the Framework) (2024), PPTS (2024) and Gypsy and Traveller Accommodation Assessment (GTAA) (2024) were published and the applicant had advanced personal circumstances as part of the appeal submission.
13. The Council set down its updated position in relation to works on site, the updated GTAA, PPTS and Framework acknowledging that paragraph 11(d) of the Framework was now triggered. Whilst the Council's Hearing Statement letter did not refer to the personal circumstances submitted with the appeal, these matters were discussed in the Hearing. I am not therefore persuaded that any failure of the Council to review its case has led to wasted expense in the appeal.

Conclusion

14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for a full, or in the alternative a partial, award of costs is refused.

Mr R Walker

INSPECTOR