



Costs Decision

Site visit made on 29 April 2025

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd June 2025

Costs application in relation to Appeal Ref: APP/Y3940/W/25/3360013 Charlie's Place, Land off Sodom Lane, Grittenham, Royal Wootton Bassett, Wiltshire SN15 4JY

- 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 John Lee for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for change of use of land to provide a Gypsy site, consisting of four pitches and associated hardstanding, landscaping and a commercial barn.
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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 (the 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 Council's decision to refuse the application was made contrary to the advice of its Officers. The applicant acknowledges that this is not, in itself, unreasonable behaviour. However, it is contended that, in doing so, the Council has not provided adequate justification for departing from the professional guidance of its Officers. In particular, it is argued that the Council failed to produce evidence to substantiate its two reasons for refusal, and failed to determine the application in a consistent manner to similar recent cases. As a result, it is alleged that the Council prevented or delayed a development that should clearly have been permitted, having regard to its accordance with the development plan, national policy, and other material considerations.
4. The first reason for refusal related to the suitability of the site for the development, bearing in mind its distance from services and facilities. The Officer's report to Committee drew Members' attention to a recent appeal decision¹ for a similar proposal close to the application site. In that case, the Inspector concluded that the appeal site was in a suitable location for two Gypsy Traveller pitches, having regard to access to services and facilities.
5. The Council argues that the planning history, including the relevant appeal, was clearly set out in the briefing papers for Members. It acknowledges that the planning history is a relevant consideration, and that there are similarities.

¹ Appeal Ref: APP/Y3940/W/22/3312704

However, it is contended that the previous proposal was not identical to the current appeal, and each case must be considered on its own merits, so Members were entitled to exercise their planning judgement.

6. The PPG advises that not determining similar cases in a consistent manner is an example of behaviour that may give rise to a substantive award of costs against a local planning authority. The Committee Minutes do not record how or why Members concluded that the proposal before them differed to the extent that it could justifiably be determined differently than the previous appeal, which was on a site that is very similarly located in respect of services and facilities. Furthermore, the Council's Statement of Case provided little evidence to explain the divergence in the two decisions. The only distinction drawn being that the current case is for four plots, rather than two. Whilst this is the case, the proximity to a range of local services and community facilities remains the same.
7. Notwithstanding the difference in the number of pitches, both proposals were for relatively small-scale Gypsy and Traveller sites. The two sites are only about 250 metres apart, and occupants of both sites would have very similar journeys to obtain facilities and services. The Council has not sufficiently substantiated its reasons for determining the application in a manner that was inconsistent with this recent and relevant appeal decision. This amounts to unreasonable behaviour, leading to unnecessary expense for the applicant in contesting this reason for refusal.
8. The second reason for refusal related to the impact of the development on landscape character. On this issue, the applicant contends that Members unreasonably departed from the advice of the Council's Landscape Officer, who did not object to the application. Whilst not objecting, the Officer's consultation reply did note some residual landscape harm, so it was open to Members to give greater weight to this harm in the overall planning balance.
9. The applicant contends that too much weight was given to a perceived change in the status of Great Wood as a result of its sale to the Wiltshire Wildlife Trust. However, I see nothing in the evidence to indicate that this was an overriding factor in the Council's decision. The reason for refusal does not refer to Great Wood, and the Council's Statement of Case provides evidence of the impact that the proposal would have on the general landscape character of the area. In my decision, I concluded that there would be harm to the character and appearance of the landscape from the public footpaths to the south of the site. It therefore follows that I consider that the Council provided adequate substantiation for this reason for refusal.
10. The applicant also contends that the Council failed to balance the harms that it identified against the acknowledged failure to identify a five-year supply of deliverable Gypsy and Traveller sites. I am mindful here, that at the time the Council made its decision, the most recent version of the Planning policy for traveller sites had not been published. Consequently, the approach to decision-making set out at paragraph 11d) of the National Planning Policy Framework was not engaged. Nevertheless, the unmet need for Gypsy and Traveller sites was still an important material consideration, and this was recognised in the Officer's report to Members. Ultimately, it was for Members to conclude the relevant weight to be given to the various considerations. In my decision, I concluded that the pressing need for additional sites to meet the identified need outweighed the limited

landscape harm, but it was not unreasonable for the Council to weigh matters differently.

11. Whilst I have concluded that the Council acted unreasonably in respect of the first reason for refusal, it adequately substantiated its second reason. Consequently, it did not unreasonably prevent or delay a development that should clearly have been permitted, so a full award of costs is not appropriate. Nevertheless, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the first reason for refusal, and a partial award of costs is therefore warranted.

Costs Order

12. 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 Wiltshire Council shall pay to Mr John Lee, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting Refusal Reason 1 on the decision notice; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Wiltshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Nick Davies

INSPECTOR