



Costs Decision

Hearing held on 3 September 2025

Site visit made on 3 September 2025

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2025

Costs application in relation to Appeal Ref: APP/C3620/W/25/3365225
Pinewood Park, Capel Road, Rusper, HORSHAM, RH12 4PZ

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. The costs application by the appellant was made in writing after the hearing and alleges unreasonable behaviour by the Council on procedural grounds as well as on substantive grounds, particularly based on the assessment of the need/supply of sites for gypsies and travellers and the prediction of windfall sites that are likely to be delivered over the next five years. The Council provided a rebuttal of the claim in writing.

Procedural

4. On the procedural claim, the planning application of this appeal was validated on the 13 September 2024. The parties do not give the date by which the application should have been determined but the Council accepts that the statutory timeframe was not met. The appellant appealed against non-determination in May 2025.
5. The Council advises that it was waiting for the outcome of a High Court decision regarding a site at Cidermill Hatch which involved another planning application by the same appellant. This involved a proposal for two gypsy and traveller pitches together with an enforcement case. An appeal decision concerning these matters had been issued on the 18th February 2025 and the Council challenged this in the High Court.
6. Although the Cidermill Hatch site was located in the Green Belt, which the current appeal site is not, the Council's challenge included other grounds related to the deliverability of sites in the need/supply assessment and a failure to consider the Examining Inspector's report (into the Local Plan). These latter two grounds are relevant to the current case.
7. The Council says that it made the appellant aware that it was waiting on the result of the High Court Challenge but has not submitted evidence of what

discussions/correspondence with the appellant's agent took place. On the other hand Mr Rowe has provided copies of an email exchange that occurred between 06 February 2025, just after the Cidermill Hatch appeal decision was issued, and the 30th April 2025. There is an email from Mr Gardener for the Council dated 20 March 2025 in effect saying that all 'traveller' applications are being reviewed and will need to be considered in the round. Although the submitted correspondence does not clearly spell out the delay pending the High Court Challenge the appellant's team was aware of it as it is referred to in Mr Rowe's subsequent email of the 9 April 2025.

8. It appears to me that the Council's reasons for delaying the then current planning application could have been more clearly set out at that critical time, and that potential decision dates on the application suggested to the appellant were missed. However, it is evident that the Council needed time to consider the wider knock-on effect of the appeal decision on Cidermill Hatch on other similar gypsy and traveller cases before it, to be consistent in decision making. Moreover, the high degree to which the case effected the wider consideration of pitch need and supply is reflected in the Council's decision to challenge the decision in the High Court.
9. While I have concerns about the lack of specific communication, I find that the Council's actions in not deciding the application before the appeal on non-determination was lodged did not amount to unreasonable behaviour.

Substantive

10. On the issue of the need/and supply of gypsy and traveller sites I made my own assessment on the evidence submitted but also taking account of the earlier appeal decision and the High Court Judgement on Cidermill Hatch.
11. I was satisfied that the format of the Council's Review 2025 document formed a reasonable basis to consider this issue and I structured the discussion at the hearing around it. Moreover, although the document listed the planning applications before the Council, it did not feed these into the pitch supply assessment. This was a material change to the evidence submitted to the inspector at the Cidermill Hatch hearing.
12. My assessment concluded that the Council could demonstrate at least a five year supply of sites/pitches for gypsies and travellers over the next five years and therefore the requirements of the PPTS were met. As such the Council did not act unreasonably in maintaining this position at the hearing.
13. Therefore, the costs incurred by the appellant are the normal costs arising when the right of appeal against non-determination have been exercised.

Conclusion

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

David Murray

INSPECTOR