

Costs Decision

Hearing held on 2 September 2025 and 21 October 2025

Site visits made on 2 September 2025 and 21 October 2025

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 20 November 2025

Costs application in relation to Appeal Ref: APP/C3620/W/25/3368598 Riverdale Paddocks, Capel Road, Rusper, Surrey, RH12 4PZ

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Joe Maloney for a full award of costs against Mole Valley District Council.
 - The application for costs is in connection with an appeal against the failure of Mole Valley District Council to give notice of its decision within the appropriate period on an application for planning permission for the siting of additional static caravans (12 additional making a total of 20) at an existing Gypsy and Traveller caravan site to provide human habitation to family members, including day room (retrospective).
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Decision: the application is refused

The case for the appellant

1. The essence of the appellant's case is that Council claimed to be waiting for legal advice pertaining to an appeal decision, specifically that relating to Land adjacent to Cidermill Hatch, Partridge Lane, Newdigate, Dorking, Surrey RH5 5BP (APP/C3620/C/24/3347934). The Appellant has submitted email exchanges as evidence that, despite numerous requests for substantive information pertaining to the likely outcome and timeline, that the Council have failed to cooperate. The response the Council gave is that it was still awaiting legal advice which, in the appellant's view, is unreasonable considering the passage of time from the decision in February 2025, that being over 5 months prior to the email exchange. The Appellant seeks a full award of costs in the matter of bringing this appeal, including the work pertaining to the costs application.

The response of the Local Planning Authority

2. The Council has not responded to the application for costs, including when offered the opportunity to do so at the Hearing.

Reasons

3. The PPG advises that, irrespective of the outcome of the appeal, costs may only 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. The PPG indicates that one of the aims of the costs regime is to encourage all those involved in the appeal process to behave in a reasonable way and to follow good practice. The PPG provides examples of unreasonable behaviour which may result in an award of costs against a local

- planning authority. These examples include lack of co-operation with the other party or parties.
4. The Council issued an enforcement notice against, and refused planning permission for, a two-pitch Gypsy & Traveller site at land adjacent to Cidermill Hatch, Partridge Lane, Newdigate, Dorking, Surrey RH5 5BP. Both were appealed. The appeals concerned, in part, whether the Council could demonstrate a five-year supply of deliverable Gypsy & Traveller sites.
 5. Both appeals were allowed. In or around March 2025, the Council sought statutory review under section 288 of the Town and Country Planning Act 1990 ("the 1990 Act") and an appeal under section 289 of that Act. The grounds of challenge included that the Inspector failed to supply legally adequate reasons, and/or reach a rational conclusion on the evidence, for the conclusion that the Council could not demonstrate a five-year supply of deliverable traveller pitches. This error is said to have stemmed primarily from the Inspector's failure to take account of the Examining Inspector's Report on the Local Plan ("EI Report") notwithstanding the fact that the EI Report was not drawn to his attention at the Hearing.
 6. The judgment of the High Court was handed down on 15 August 2025. The statutory review and appeal were refused on all grounds, including in relation to whether the Council demonstrate a five-year supply of deliverable Gypsy & Traveller sites.
 7. The judgment of the High Court in relation to the Cidermill Hatch appeals was fundamental to my consideration of this appeal, not least the finding of the High Court that was little to no overlap between the tasks being undertaken by an Examining Inspector and that facing an Inspector in a section 78 appeal. That finding was one of the reasons that entitled me to depart from the conclusions reached by an Inspector in relation to another site in the District (Pinewood Park: appeal Ref: APP/C3620/W/25/3365225) who, on the evidence before him, had found that the Council could demonstrate a five-year supply of deliverable Gypsy & Traveller sites.
 8. The appellant placed considerable store on the Cidermill Hatch judgment at the Hearing. Indeed, Mr Whale, representing the appellant in this case, had himself appeared before the High Court in relation to it (representing another party). I found the judgement very helpful and highly relevant to my Decision.
 9. In my view, the Council was entirely correct to wait until the judgement had been handed down until it determined the application and/or communicated its position on the matter of the five-year supply of deliverable Gypsy & Traveller sites. To have done so before the judgment was handed down would have been premature.
 10. I find that the Council has not acted unreasonably in relation to this appeal.
 11. Furthermore, the application to which this appeal relates (Council Ref: MO/2024/1917) was submitted on 11 November 2024. The option to appeal against the non-determination of the application would have been available to the appellant from early January 2025. It follows that the option of lodging an appeal against the non-determination of the application would have been available to the appellant even before the Council challenged the Cidermill

Hatch appeal in the High Court in February 2025. That option was also available to the appellant at any time right up to when the appeal was eventually made on 2 July 2025. The delay in submitting the appeal was therefore not of the Council's making.

12. I conclude that the Council has not acted unreasonably in any aspect of the appeal process. The PPG makes it clear that costs may only be awarded where one party has acted unreasonably and that this unreasonable behaviour resulted in the other party incurring unnecessary and wasted expense. In this case, neither requirement for the award of costs set out in the PPG was met. Accordingly, an award of costs is not justified.

Paul Freer
INSPECTOR