COSTS STATEMENT

Land to the Rear of Pear Tree Farm, Furners Lane, Woodmancote, West Sussex. BN5 9HX

DC/24/0506

Full application for a proposed four pitch settled gypsy accommodation site

Reason for Refusal (RFR)

The cumulative impact of the development would introduce unacceptable harm to the countryside, contrary to policies 26, 32 and 33 of the Horsham District Planning Framework (2015).

Executive summary

This is the third time that the Planning Committee have overturned officer recommendation to permit gypsy pitches at this site. On the two previous occasions the appeal was allowed with costs against the Council.

It is clearly sensible for decision makers to be given advice by officers on the costs consequences of their decisions. Indeed, in the planning context, the advice in the Planning Practice Guidance on the role and purpose of the costs regime would serve little purpose if decision makers could never properly consider the costs consequences of their decisions. That advice includes the following (at ID16-028-20140306):

"*The aim of the costs regime is to: […] encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay*".

The current proposal would take the number of pitches up to 12. There is no allegation that the number of pitches would dominate the settled community, nor should there be.

The Planning application was recommended for approval. The link below is to the Committee meeting with the item being discussed from 32 mins 55 seconds to 1 hour 10 mins. The vote was 7 for refusal and 5 for approval.

https://www.youtube.com/watch?v=A7Ds0KHo9e0

Prepared by: Phil Rowe, BA Hons, BTP (Planning)
PROwe Planning Solutions - [redacted]

It would be appreciated if the Inspector can watch the web caste of the meeting. It is clear throughout that the Planning officers were at pains to highlight:

- the planning history, the previous appeal decisions with regards to lack of countryside harm.
- the risk of costs being awarded again if the application was refused again.

The debate is painful to watch. Allowing Planning Committee members to debate minor applications such as this which comply with planning policy and have the support of all consultees is precisely why the Government are imminently seeking to amend delegated powers to reduce the number of applications that have to go to Planning Committee.

On 19 December 2023, the Secretary of State made a Written Ministerial Statement on aspects of the planning system.3
3 Statement UIN HCWS161.

It included the following:

"The overturning of a recommendation made by a professional and specialist officer should be rare and infrequent – such that I have reminded the inspectorate that where it cannot find reasonable grounds for the committee having overturned the officer's recommendation, it should consider awarding costs to the appellant."

This statement is still applicable. By way of example, Inspector McDonald MSc MRTPI applied it in her 13 August 2025 Costs Decision awarding a full award of costs.4
4 APP/A4520/W/25/3365110: Former Whitburn Lodge Public House, Mill Lane, Whitburn SR6 7BF

There were no reasonable grounds for the committee members to overturn the Chief Planning Officer's recommendation

The appellant should be awarded his costs in full.

Conclusion

The appointed Inspector is respectfully urged to allow the appeal and grant permission in principle for the proposed development, with a full costs award in the appellant's favour.

What type of behaviour may give rise to a substantive award against a local planning authority?

Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

failure to produce evidence to substantiate each reason for refusal on appeal

vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead

acting contrary to, or not following, well-established case law

not determining similar cases in a consistent manner

(This list is not exhaustive).

Revision date: 06 03 2014

COSTS CLAIM STATEMENT

The decision to claim **full costs** is made on both a **procedural and substantive** basis.

The extracts below in relation to Costs guidance with traffic light highlighting added confirmed how the Councils (in this instance the Planning Committee contrary to officer approval recommendation) actions **have acted wholly unreasonably**.

The Council have:

- **Failed** to undertake a planning balance exercise **(i.e. they have 'prevented and delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations / failed to produce evidence to substantiate each reason for refusal on appeal and have acted contrary to, and followed, well-established case law**

- **Failed** to act consistently with regard to the same considerations that would have been applicable to their own traveller site at Cousins Copse.

- Acted unreasonably and inconsistently by making **vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis** and **contrary to both National guidance and their own adopted policies in relation to the self -explanatory highlighted text.**

http://planningguidance.communities.gov.uk/blog/guidance/appeals/behaviour-that-may-lead-to-an-award-of-costs-against-appeal-parties/#local-planning-authorities

Paragraph: 030 Reference ID: 16-030-20140306

In what circumstances may costs be awarded?

Costs may be awarded where:

- a party has behaved unreasonably; and
- the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

Revision date: 06 03 2014

COMMENT – In terms of advance warning on costs the appellant has to date expended and committed in excess of £20,000 directly related to the appeal. On the basis that the outcome of the appeal is of paramount importance to provision of unmet need for traveller pitches the applicant has undertaken to additionally invest in any additional legal or consultee advice necessary.

Paragraph: 028 Reference ID: 16-028-20140306

Why do we have an award of costs?

Parties in planning appeals and other planning proceedings normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. **Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.**

The aim of the costs regime is to:

- encourage all those involved in the appeal process **to behave in a reasonable way and follow good practice**, both in terms of timeliness and in the presentation of full and detailed evidence to support their case
- encourage local planning authorities **to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay,**
- discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.

Revision date: 06 03 2014

Paragraph: 029 Reference ID: 16-029-20140306

Who can apply for an award of costs and who can have costs awarded against them?

Local planning authorities, appellants and interested parties who have taken part in the process, including statutory consultees, may apply for costs, or have costs awarded against them. A party applying for costs may have costs awarded against them, if they themselves have behaved unreasonably.

An Inspector or the Secretary of State may, on their own initiative, make an award of costs, in full or in part, in regard to appeals and other proceedings under the Planning Acts if they consider that a party has behaved unreasonably resulting in unnecessary expense and another party has not made an application for costs against that party.

Revision date: 06 03 2014

Paragraph: 046 Reference ID: 16-046-20140306

When might an award of costs be made against a local planning authority?

Awards against a local planning authority may be either **procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.** The examples below relate mainly to planning appeals and are not exhaustive. The Planning Inspectorate will take all evidence into account, alongside any extenuating circumstances.

Revision date: 06 03 2014

Paragraph: 047 Reference ID: 16-047-20140306

What type of behaviour may give rise to a procedural award against a local planning authority?

Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal, for example by complying with the requirements and deadlines of the process. Examples of unreasonable behaviour which may result in an award of costs include:

- prolonging the proceedings by introducing a new reason for refusal
- providing information **that is shown to be manifestly inaccurate or untrue**

(This list is not exhaustive).

Revision date: 06 03 2014

Paragraph: 049 Reference ID: 16-049-20140306

What type of behaviour may give rise to a substantive award against a local planning authority?

Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- **preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.**

- **failure to produce evidence to substantiate each reason for refusal on appeal**
- **vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.**
- **refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead**
- **acting contrary to, or not following, well-established case law**
- **not determining similar cases in a consistent manner**

(This list is not exhaustive).

Revision date: 06 03 2014

Paragraph: 031 Reference ID: 16-031-20140306

What does "unreasonable" mean?

The word "unreasonable" is used in its ordinary meaning, as established by the courts in Manchester City Council v SSE & Mercury Communications Limited [1988] JPL 774.

Unreasonable behaviour in the context of an application for an award of costs may be either:

- procedural – relating to the process; or
- substantive – relating to the issues arising from the merits of the appeal.

The Inspector has discretion when deciding an award, enabling extenuating circumstances to be taken into account.

Revision date: 06 03 2014

> "The word unreasonable is used in its ordinary meaning as established by the Courts in Manchester City Council v SSE & Mercury Communications Limited [1988] JPL 774. Further explanation of what is likely to be regarded as unreasonable behaviour is set out in Part B of the annex. The most common examples concern non-compliance with procedural requirements **or failure by the planning authority to substantiate a stated reason for refusal of planning permission**."

That paragraph refers to Part B of the Circular, the most pertinent paragraph of which for present purposes is paragraph B16 which reads as follows:

> "**Authorities will be expected to produce evidence to show clearly why the development cannot be permitted.** The planning authority's decision notice should be carefully framed and should set out in full the reasons for refusal. Reasons should be complete, precise, specific and relevant to the application. **Planning authorities will be expected to produce evidence at appeal stage to substantiate each reason for refusal with reference to the development plan and all other material considerations including any relevant judicial authority. If they cannot do so, they risk a costs award against them for any unsubstantiated reason for refusal.** This continues to be the ground on which costs are most commonly applied for and awarded against a planning authority. The key test will be whether evidence is produced on appeal which provides a **respectable basis for the authority's stance**, in the light of *R v SSE ex parte North Norfolk DC 1994 [2 PLR 78].*"

Paragraph: 032 Reference ID: 16-032-20140306

What counts as unnecessary or wasted expense?

An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. This could be the expense of the entire appeal or other proceeding or only for part of the process.

Costs may include, for example, the time spent by appellants and their representatives, or by local authority staff, in preparing for an appeal and attending the appeal event, including the use of consultants to provide detailed technical advice, and expert and other witnesses.

Costs applications may relate to events before the appeal or other proceeding was brought, but costs that are unrelated to the appeal or other proceeding are ineligible. Awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.

Revision date: 06 03 2014

Paragraph: 033 Reference ID: 16-033-20140306

Can costs be claimed for the period during the determination of the planning application?

No, but all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, **behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.**

Revision date: 06 03 2014