

Little Meadow

The original Planning Application for the installation of a mobile home on the land on Corby Road now known as Little Meadow was submitted on 13 September 2005. It came before Cottingham Parish Council on 2 November 2005 and was not supported. It was later refused by Corby Borough Council on 17 January 2006.

An Appeal was submitted by the applicant to Corby Borough Council in May 2006. The Appeal contained reference to the applicant's traveller status, adding that the applicant and his family '...do not own any other land or property and this would be their chance of a permanent site for their use...'.

Corby Borough Council issued a letter on 15 June 2006 notifying all residents who had objected to the original Planning Application of the Appeal. Any further comments were to be addressed to the Planning Inspectorate in Bristol by 17 July 2006. Cottingham Parish Council did not receive this letter.

Following a site visit by the Planning Inspector on 13 February 2007, the Appeal was upheld and Temporary Planning Permission granted for two caravans '...capable of being towed on the public highway...without division into separate parts.' The Temporary Planning Permission was granted for five years (from 20 February 2007), after which '...the use hereby permitted shall cease and all caravans, materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition.'

Challenging the Appeal

Cottingham Parish Council held a public meeting on 10 April 2007 at which villagers from Cottingham, Middleton and East Carlton gave their support for Cottingham Parish Council to take legal advice on the possibility of challenging the Planning Inspectorate's decision. Around £17,500 was subsequently raised by the villagers to meet any potential legal costs.

Shortly afterwards, the Parish Council engaged Richard Buxton Solicitors, based in Cambridge, who were recommended as specialists in Planning and Environmental Law.

The Parish Council was advised that, if it could produce the appropriate evidence, it could ask the Secretary of State to refer the Inspector's Planning Appeal decision back to the Planning Inspectorate for reconsideration. It was made clear that, should it get to the stage where it is referred back, it would not necessarily mean that the Planning Inspectorate was obliged to reverse its decision.

With the villagers' agreement, the Parish Council resolved to use the money to explore every opportunity to get the decision referred back to the Planning Inspectorate.

The Parish Council's initial case was devised by Buxton's and submitted to the High Court on 2 April 2007. The case was against three Defendants: the Secretary of State (First), the applicant (Second) and Corby Borough Council (Third). The case was based on the following points:

- Because the Parish Council did not receive the notification of the Appeal from Corby Borough Council, 'due process' had not been followed.
- The Parish Council was denied the opportunity to respond to the applicant's claims of traveller status, which were not mentioned in the original Planning Application.
- The applicant was believed to have a connection with a house in Desborough so the Parish Council was keen to examine the claims that he did not own any other land or property.

The case against the Borough

The first few months of the case were taken up by the dispute with Corby Borough Council about the sending of the Appeal notification letter. Corby Borough Council filed an application with the Court to 'strike out' (i.e. remove from the Parish Council's case) the Parish Council's claim that it had not received the notification letter.

This particular part of the case was to be heard in Court in July 2007 and if Corby Borough Council were successful, it could have seriously undermined the Parish Council's case. However, after taking Barrister's advice, we were advised that we had a very good chance of success and the case was set to go ahead.

On 11 July 2007, Corby Borough Council withdrew its application and agreed to pay the Parish Council's legal costs.

Ownership of the Desborough property

With that part of the case now settled, the next 18 months were spent attempting to establish ownership of the house in Desborough.

The applicant's wife and sister had the same name, so it was difficult to determine which was the actual owner of the house. If it had been the wife, this would have contradicted the assertion, made in sworn statements to the Secretary of State on 15 August 2007, that the sister was the true owner of the house.

Buxton's obtained the Mortgage Application and the Conveyancing Document, but the issue of ownership still appeared to be inconclusive.

In late 2008, the Parish Council's final option was to ask Buxton's to approach the applicant's Conveyancing Solicitors, Hoben Johnson (who also acted for the owner of the house in Desborough), to confirm that they had acted for the applicant's sister in the purchase of the Desborough house and not the wife. After taking advice from the Law Society, Hoben Johnson were advised that they could be breaching their client's confidence by disclosing any further details.

The Parish Council at that point could have applied for a court order to obtain this information, but after considering the expense of applying, along with the possibility of it not being granted, it was decided not to pursue this action.

Withdrawing the case

On 16 January 2009 the Parish Council was advised that it should withdraw from the case as, despite whatever evidence it felt it had so far collected, it was not substantial enough to form a 'robust case'. This decision was ratified at Cottingham Parish Council's 4 February meeting and Buxton's were asked to formally withdraw the case, which was due to be held on Monday 2 March 2009.

A Consent Order (the document required to 'officially' withdraw from the case) was drawn up asking all defendants (the Secretary of State, the original applicant and Corby Borough Council) to settle their own costs. This was disputed by the Treasury Solicitor (who is acting for the Secretary of State) who was demanding £7,500 in costs from the Parish Council.

This figure itself was disputed by Buxton's and an offer of £2,000 was made to the Treasury Solicitor. This was turned down but, after consulting with its client (the Secretary of State), an amendment to the Consent Order was made stating that both parties would come to an agreement about costs within 14 days of the Consent Order being sealed. This would be by correspondence only, so as not to incur any additional court costs. If an agreement was not reached within that time, the Court would make a judgement.

Although this had been agreed on Thursday 19 February, the Treasury Solicitor changed its mind the following Monday and refused to sign the Consent Order.

Update

Despite the best efforts of our solicitors, they were unable to persuade the Treasury Solicitor to adhere to the original agreement to avoid having the case heard in court so the case went ahead before Mr Justice Cranston on Monday 2 March 2009.

Unfortunately, the Judge 'was unsympathetic to our case' and ordered that we should pay all costs to all of the defendants. These costs were as follows:

- £7,192 to the Secretary of State (reduced by the Judge from £7,882);
- £3,000 to Corby Borough Council (reduced by the Judge from £5,000).

The original applicant did not apply for costs so none were awarded.

The final total for this action (including all costs) was in the region of £25,500, which has been met by the contribution made by residents of the three villages and from balances within the Parish Council's accounts.