The Planning Inspectorate

Costs & Decisions Team

3F Hawk
Temple Quay House
2 The Square
Bristol, BS1 6PN

Direct Line: 0303 444 5601
Customer Services: 0303 444 5000

Rebecca Green
Planning Enforcement Officer
Guildford Borough Council
Millmead House
Millmead
Guildford
Surrey GU2 4BB

Your Ref: EN/15/00280

Our Ref: APP/Y3615/C/16/3145911

Date: 23 September 2016

Dear Madam

**LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)**
**TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 174 AND 322**
**LAND TO THE WEST OF SEAGRY, WHITE HART LANE, WOOD STREET VILLAGE, GUILDFORD GU3 3DZ**
**APPEAL BY MR S BRAZIL: APPLICATION FOR COSTS**

1. I am directed by the Secretary of State for Communities and Local Government to refer to the Planning Inspector's decision of 12 July 2016 concerning the appeal by Mr S Brazil. The appeal was against Guildford Borough Council's enforcement notice dated 3 February 2016.The notice alleged a breach of planning control on land described above by:

> *"without planning permission, the erection of metal gates and posts over one metre in height adjacent to a highway."*

2. This letter deals with the Council's application for an award of costs against the appellant as made in correspondence of 8 June 2016[1]. The appellant's agents, WS Planning & Architecture replied on 1 August 2016. As these representations have been made available to the parties it is not proposed to summarise them. They have been carefully considered.

**Summary of decision**

3. The formal decision is set out in paragraph 10 below. The costs application fails and no award of costs is being made.

**Basis for determining the costs application**

4. In enforcement appeals the parties are normally expected to meet their own expenses irrespective of the outcome. Costs are awarded only on the grounds of "unreasonable" behaviour, resulting in unnecessary or wasted expense.

[1] Although the Council's costs application sought a full award of costs the Planning Inspectorate's letters of 21 June and 6 July 2016 explained the reasons why the Council's application could only be considered in respect of the appellant's failure to attend the site visit on 1 June 2016.

5. Section 322 of the Town and Country Planning Act 1990 enables the Secretary of State to award appeal costs against any party which do not give rise to a local inquiry where it is found that one of the parties to the appeal has behaved unreasonably and the expense incurred by any of the other parties is wasted as a result.

6. The application for costs has been considered in the light of the Government's Planning Practice Guidance (PPG), the appeal decision, the appeal papers, the written costs correspondence and all the relevant circumstances.

**Reasons for the decision**

7. All the available evidence has been carefully considered. Particular regard has been paid to the guidance at paragraph 052 of the PPG. The decisive issue is whether or not the appellant acted unreasonably, causing the Council to incur unnecessary expense, by failing to attend or to be represented at a site visit (accompanied site visit - ASV) arranged for 1 June 2016.

8. In this case the Council's officer and the Planning Inspector attended the site inspection arranged for 12:00 on 1 June 2016 but the appellant did not attend and was not otherwise represented. The Inspector considered that he was able to see the site and that it was not therefore necessary to arrange another site inspection. The Inspectorate's letter of 2 June 2016 explained that the Inspector was able to carry out an unaccompanied site visit (USV) and that he had sufficient information to determine the appeal. His appeal decision was issued subsequently.

Conclusions

9. It is noted that arrangements for an accompanied site visit were made in the Inspectorate's letter of 27 April 2016 and the appellant/agents were told to make arrangements for the Inspector to be met on site to enable an inspection to be made. To the extent that the appellant failed to attend, or be represented, at the site visit, the appellant acted unreasonably. However, an award of costs may be made only on grounds of unreasonable behaviour resulting in unnecessary or wasted appeal expense. In this case it was not necessary for further arrangements to be made for an accompanied site visit. The Council therefore did not incur any expense in addition to the expense of attendance on 1 June 2016. That expense would have been incurred in any event on the basis that both parties were required to attend (or be represented) at the site visit on that date. The conclusion therefore drawn, in the absence of the need for a further site visit, is that the Council did not incur unnecessary expense in the appeal process.

**FORMAL DECISION**

10. For the reasons stated above, the Secretary of State has decided that an award of costs on grounds of "unreasonable" behaviour resulting in unnecessary expense, is not justified, in the particular circumstances of this case. The Council's application for costs is therefore refused.

11. A copy of this decision letter has been sent to the appellant's agents.

Yours faithfully

*S Parsons*

STEVE PARSONS
Authorised by the Secretary of State
to sign in that behalf