

Costs Decision

Inquiry held on 30 November and 20 December 2016

Site visit made on 30 November 2016

by Julia Gregory BSc (Hons), BTP, MRTPI, MCMI

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

Decision date: 06 February 2017

**Costs application in relation to Appeal Ref: APP/D3640/W/16/3145185
Frimhurst Farm, Deepcut Bridge Road, Deepcut, Camberley, Surrey
GU16 6RF**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs L Halford for a full award of costs against Surrey Heath Borough Council.
 - The appeal was against the refusal of planning permission for continued use of the existing Industrial centre (use classes B1, B2 and B8 and new vehicular access on to Deepcut Bridge Road and stopping up of existing access (Resubmission of SU/14/0605).
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Decision

1. The application for an award of costs is refused.

Reasons

2. 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. These can be either procedural or substantive.
 3. The costs application by the appellant and the Council's response were submitted in writing. It is not therefore necessary to repeat these in any great detail.
 4. The appellant seeks a full award of costs for the appeal. She considers that the Council has been unreasonable in refusing the application for the reasons given in representations. These relate to the substance of the case made by the appellant, most particularly the matters that relate to the planning history of the site.
 5. Had the Council engaged with the appellant at the outset, the time and money spent on the appeal could have been avoided, in light of gaining planning permission and a lawful development certificate for the historic core.
 6. Furthermore, these outstanding matters could have been dealt with by written representations. That the Council did not act in a reasonable or timely manner has resulted in the Inquiry being the quickest and best way for the appeal to be now determined.
 7. The Council has failed to fully explain their case. Furthermore their position on various matters changed whilst trying to reach agreement on a statement of common ground.
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8. In response, the Council identified that it had taken into account that there were parts of the site that were immune from enforcement action and /or lawful in the determination of the planning application. The Council has been consistent in its position that it is the additional unlawful units which are unacceptable together with the proposed access. A previous access had been refused planning permission.
9. The delay in determination of the application was not unjustified. The Council had asked the Inspectorate to change the method of determination to be by written representations once the areas of dispute had been narrowed. It was the appellant who wished to continue with the Inquiry.
10. There is no lack of clarity about the issues. The statement of common ground process was made torturous by the appellant trying to introduce arguments to bolster their case. The Council has not been unreasonable in regard to any procedural or substantive matters.
11. The PPG identifies that parties in planning appeals normally meet their own expenses. The award of costs does not necessarily follow the event but as I have dismissed the appeal on its planning merits, I consider that it would not be justified to make a full award of costs.
12. Furthermore, having considered all the evidence I consider that the Council was fully justified in refusing the application. There was no lack of co-operation in assisting the appellant, but rather circumstances that evolved through the process of negotiation and production of evidence.
13. The Council has exercised its duty to determine the application in a reasonable manner, and in such circumstances the PPG identifies that they should not be liable for an award of costs.
14. There is no reason to conclude that better communication would have avoided the appeal overall, although I acknowledge that the circumstances might have turned out differently.
15. Having considered carefully the planning circumstances, I consider that they would not justify partial costs being awarded against the Council.
16. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Julia Gregory

Inspector