
Costs Decision

Site visit made on 22 February 2017

by B M Campbell BA(Hons) MRTPI

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

Decision date: 11 April 2017

**Costs application in relation to Appeal Ref: APP/T5720/C/16/3156138
Land on the south side of Wyke Road, Raynes Park SW20 8NH (HM Land
Registry title number SGL471634)**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Capital Cars for a full award of costs against the Council of the London Borough of Merton.
 - The appeal was against an enforcement notice alleging the use of the land for car parking.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
 3. The Appellant's case is that the Council acted unreasonably in refusing to deal with the Appellant's planning application. It was understood that a negotiated solution had been reached. In refusing to determine the application, wasted expense has been incurred by the Appellant in having to appeal the subsequent enforcement notice.
 4. The Council does not accept that an acceptable scheme had been negotiated. It also maintains that the application for planning permission was invalid and that additional information requested was not provided.
 5. It is clear from the e mail trail submitted as part of the Appellant's case that the Council's requests for additional information (in particular relating to plans and to question 13 of the application form) were responded to and, moreover, in relation to each query the Appellant sought confirmation from the Council that the matter had been satisfactory addressed.
 6. Whilst I may not have the full picture, it is difficult to understand why the Council did not deal with the application. The Council appears to have been sending out letters stating that it had not received a reply whilst at the same time communications were on-going by e mail with a view to resolving the outstanding issues. From the evidence before me it does appear that the Council's behaviour in relation to this matter was unreasonable.
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7. Be that as it may, an award of costs is only justified where unreasonable behaviour has resulted in wasted expense. In this respect it is clear from the Council's statement addressing the appeal on ground (a) that the proposed scheme, the subject of the undetermined planning application would have been refused had the Council dealt with it. The Appellant has provided no evidence that the scheme had been accepted by officers and in any event an officer's informal view is not binding on the Council. Thus, as the application would have been refused, an appeal would not have been avoided and the Council's actions have not resulted in wasted expense for the Appellant.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

B M Campbell

Inspector