



Costs Decision

Hearing Held on 25 July 2017

Site visit made on 25 July 2017

by Paul Dignan MSc PhD

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

Decision date: 14 August 2017

Costs application in relation to Appeal Ref: APP/W0340/X/17/3167986 Former GAMA site, Greenham Common, Basingstoke Road, Thatcham, Berkshire, RG14 7HQ.

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Flying A Services Ltd for a full award of costs against West Berkshire Council.
 - The hearing was in connection with an appeal against the part refusal of the Council to issue a certificate of lawful use or development for Use of the property for internal storage within class B8.
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Decision

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

Reasons

2. Parties to a planning appeal are normally expected to bear their own costs, but costs can be awarded where the unreasonable behaviour of a party has caused another party to incur unnecessary or wasted expense. In this case the appellant submits that the Council has acted inconsistently with regard to the established legal principles, and that had it assessed the application correctly it would have granted the LDC in full and the appeal would not have been necessary. However, I do not accept that the Council's conclusion in respect of the former maintenance building, namely that it had been used for 10 years for storage purposes, necessarily determined the character of the use of the site as a whole over the relevant period. On a large site such as this with numerous buildings it is not invariably the case that the use of a single building establishes the overall use of the site as a single planning unit. Although I came to a different conclusion to the Council, I found the hearing necessary to gain a full understanding of how the site as a whole was used over the relevant period. I did not find the evidence submitted in support of the application to be sufficiently precise and unambiguous on its own to justify the issue of an LDC in the terms applied for.
3. The Council has also been criticised for refusing to reveal the legal advice which it says underpinned its decision. I certainly found it unhelpful for the Council not to disclose whatever advice it did have, but in my view this was a case that stood to be assessed on its own facts.
4. Regarding the length of time that the Council took to determine the application, it was open to the appellant to make an appeal against non-determination of

the application. My view is that the hearing was necessary and I have not seen any evidence of how the delay might have added unnecessarily to the costs incurred.

5. Overall, my conclusion is that unreasonable behaviour on the part of the Council leading to wasted or unnecessary costs for the appellant has not been demonstrated, and it follows that an award of costs is not warranted.

Paul Dignan

INSPECTOR