
Costs Decision

Site visit made on 27 November 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 18th December 2017

Costs application in relation to Appeal Ref: APP/P5870/W/17/3179973 War Memorial Sports Ground, Colston Avenue, Surrey SM5 2PW

- 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 Mr Paul Dipre, Carshalton Athletic FC,
 - for a full award of costs against the Council of the London Borough of Sutton.
 - The appeal was against a grant of planning permission subject to conditions.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The applicant seeks a full award of costs on the basis that the Council's imposition of conditions 3 and 4, which controlled noise and hours of use, was unreasonable.
 3. At the planning application stage, the Council considered that no significant harm would be caused through noise or disturbance, yet it applied conditions which would control these effects. At the appeal stage, while it rightly stated that noise had the potential to disturb the neighbours, it did not offer any analysis or substantive evidence that there was any risk of the replacement building causing this harm. It did not substantiate its case for the need for the conditions which it had applied.
 4. Moreover, the applicant raised several grounds challenging the conditions, to which the Council did not respond. Aside from the conditions being unnecessary, the noise condition it applied was not relevant to the development, enforceable or precise.
 5. The Planning Practice Guidance (PPG) describes the imposing of a condition which does not meet the tests in the National Planning Policy Framework as an example of unreasonable behaviour. So too is the making of vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
 6. Accordingly, I find that the Council was unreasonable in applying both conditions, and that unnecessary or wasted expense, as described in the PPG, has been demonstrated and that therefore a full award of costs is justified.
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Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the London Borough of Sutton shall pay to Mr Paul Dipre, Carshalton Athletic FC, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to the London Borough of Sutton, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Patrick Whelan

INSPECTOR