



Costs Decision

Site visit made on 18 June 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2019

Costs application in relation to Appeal Ref: APP/Z3825/W/19/3226051 Birchfield Nursery, Kidders Lane, Henfield BN5 9AB

- 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 Robert Dunckley of Jack Dunckle Ltd for a full award of costs against Horsham District Council.
 - The appeal was against the refusal of the Council to grant an application for approval of details reserved by conditions 6 and 7 attached to DC/17/1067 for the creation of new access and vehicle crossover.
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Decision

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

Reasons

2. The Planning Practice Guidance¹ (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Having regard to the combined planning appeal and costs statement submitted by the applicant, I understand it is claimed that the deemed discharge notice (DDN) had taken effect. As a result, in accordance with Section 74(A) of the Town and Country Planning Act 1990 (as amended), 'the local planning authority's consent, agreement or approval to any matter as required by the condition is deemed to have been given'. It is therefore argued that the applicant has been put to unnecessary expense by having to contest the Council's stated position through the appeal process.
4. Within my decision, I have however explained the reasons why the DDN did not come into effect and why the provision for deemed discharge did not apply in respect of the disputed conditions, which can therefore only be discharged where a formal decision has been made. As the conditions details are not considered satisfactory, the Council had no other option but to refuse the application which led to this appeal.
5. Unreasonable behaviour or wasted expense, as described in the PPG, has therefore not been established. On this basis, I conclude that an award of costs is not justified.

S Edwards

INSPECTOR

¹ Paragraph: 030 Reference ID: 16-030-20140306.