



Costs Decision

Site visit made on 13 April 2021

by N Thomas MA MRTPI

An Inspector appointed by the Secretary of State

Decision date: 6 May 2021

Costs application in relation to Appeal Ref: APP/M3645/X/20/3261543 Land to the north of No 35 Chalkpit Lane, Oxted RH8 0NF

- 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 Oxted Land Company Ltd for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of an application for a certificate of lawful use or development for the erection of hoardings not exceeding 2 metres in height above ground level.
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Decision

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

Reasons

2. An award of costs may be made where a party has acted unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or waste expense in the appeal process. The Planning Practice Guidance (PPG) advises that local planning authorities may be at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example by unreasonably refusing applications. This could be by acting contrary to or not following well established case law, or making vague or generalised assertions about a proposal.
3. The appellant argues that the Council failed to properly evaluate the application, and therefore the appeal could have been avoided. It referred to an appeal decision which is not comparable, and did not make specific reference to established case law, namely *Simmonds v Secretary of State for the Environment and Rochdale Metropolitan Borough Council* [1981].
4. There is no obligation for local planning authorities to make specific reference to case law in their planning officer reports. In this case, although the planning officer's report does not make specific reference to *Simmonds*, it does identify that the question of whether the hoardings would be adjacent to the highway is a matter of fact and degree for the decision maker. Although I have found that in any event the development is not lawful, I am satisfied that the Council applied the principle established by the case law in its consideration of whether the hoardings are adjacent to the highway.
5. Moreover, as the Council determined the application based on the specific circumstances of the case, as required by case law, it does not follow that the decision has wide ranging implications for boundary treatments across the country, as suggested by the appellant.

6. The Council gave clear reasoning for its decision in the planning officer's report and applied the principle established by case law. I do not therefore agree that it made vague or generalised assertions about the proposal. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not therefore been demonstrated.

N Thomas

INSPECTOR