
Costs Decision

Site visit made on 22 June 2021

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 July 2021

Costs application in relation to Appeal Ref: APP/U2235/W/19/3225715 Plot 4, The Three Sons, Hampstead Lane, Nettlestead ME18 5HN

- 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 Maidstone Borough Council for a partial award of costs against Mr Dean Marney.
 - The appeal was against the refusal of planning permission for the stationing of 1no mobile and 1 no touring caravan for use by Gypsy & Traveller family with associated hardstanding, dayroom and parking.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 applicant's (the Council) grounds for the claim is made on the basis of the appellant failing to engage over the production of the requested Statement of Common Ground (SoCG) and the wasted time and expense, and the failure to meet the deadlines set by the Inspectorate.
4. The SoCG is a required document whilst a planning appeal is progressing under the hearing procedure. Under the Rules, an agreed version is to be submitted at the 5 week stage.
5. In this case, this deadline was not met by the main parties and I subsequently requested that the agreed SoCG be submitted. This was in order to provide further clarity over what matters were in agreement and disagreement. I stated that the Council should take the lead in the production of this document, in conjunction with the appellant. The Council did follow my instructions insofar as producing a draft version and also referred to a lack of engagement by the appellant. It seems this led to the lack of an agreed SoCG, despite the efforts of the Council.
6. In relation to a failure of the appellant to meet other deadlines set by the Inspectorate, there has also been a distinct lack of engagement. This has extended to not responding to correspondence with regard to matters over how the appeal was to proceed, a document request and the written questions that

- I posed. It is fair to say that the engagement of the appellant with the appeal process is less than what would be normally and reasonably expected.
7. In taking these considerations together, I would accept that the appellant has acted unreasonably with regard to the SoCG and there has been a failure to meet at least some of the deadlines set by the Inspectorate.
 8. However, for costs to be awarded, there also needs to have been unnecessary or wasted expense in the appeal process. As I have set out above, the SoCG is a required document whilst an appeal is proceeding as a hearing and so the Council would still have incurred such expense, even if the appellant had been more forthcoming. That the appeal procedure subsequently was changed to written representations where a SoCG is not required has a limited bearing because that was a decision that I took and was triggered by the Council querying whether the appellant maintained an interest in the site. In any event, the Council asked me still to consider the draft SoCG and I took account of it in my decision.
 9. In respect of the failure to meet at least some of the deadlines set by the Inspectorate, it is not evident how this has caused the Council expense. The deadlines largely concerned matters where I was seeking a response from both main parties. It would still have been expected that the Council would respond, even though the frustration that the appellant did not reciprocate is understandable.
 10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not, therefore, justified.

Darren Hendley

INSPECTOR