The Planning Inspectorate

Costs Decision

by Brian Cook BA (Hons) DipTP MRTPI

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

Decision date: 06 January 2022

Costs application in relation to Appeal Ref: APP/Q3820/X/20/3259803
Blackcorner Wood Smallholdings, Balcombe Road, Crawley RH10 3NL

- 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 Crawley Borough Council for a full award of costs against Mr Stan Clark.
- The appeal was against the refusal of a certificate of lawful use or development for Airport related parking at Blackcorner Wood Smallholdings. The area as covered by Enforcement Notice ENF/2002/0013.

Decision

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

The application made by Crawley Borough Council

2. The application for a full award of costs was made by the Council at section 6 of its appeal statement.

The response by Mr Clark

3. The response by the appellant was given within the final comments submitted in accordance with the appeal timetable.

Reasons

4. The Planning Practice Guidance 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.

5. The gist of the Council's application for a full award of costs is that the matter that is the subject of the appeal has already been determined previously at appeal in favour of the Council. This appeal raises no new evidence and there was therefore little or no chance of the appeal succeeding. Advice was given to that effect by the Planning Inspectorate (PINS). Pursuing the appeal in these circumstances amounts to unreasonable behaviour.

6. In summary, the appellant disagrees with the Council's characterisation of the advice received from PINS. Furthermore, argument about the effect of s180 was not put before the previous appeal Inspector. The appellant therefore responded to the onus on him to provide additional evidence.

7. Although s180 of the Act is relevant, the outcome of the appeal turns on whether or not s173(11) of the Act comes into play given the construction of the 2002 notice. As set out in some detail in the appeal decision I am clear

that it does. The LDC for which an application was made in February 2017 should therefore have been granted and the appeal against that decision should have been allowed.

8. Costs do not follow the event under the planning code and my decision to allow the appeal does not automatically mean that it was not unreasonable to make a further application and appeal. However, while the appellant could have challenged the previous appeal decision through the court, he instead chose to make a further LDC application raising an additional point with respect to the effect of s180 (1). I do not consider it would be fair to criticise the Council for refusing to grant the LDC a second time given the previous appeal decision. Nevertheless, it would be perverse to find that this appeal was unreasonably pursued when the application that gave rise to it should never have been necessary in the first place.

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Brian Cook

Inspector