



Costs Decision

Site visit made on 31 January 2023

by Richard S Jones BA(Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2023

Costs application in relation to Appeal Ref: APP/Y3615/X/22/3300740 Summer Place, Pirbright Road, Normandy, Surrey GU3 2AQ

- 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 Mr Bill Bousfield for a full award of costs against Guildford Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a certificate of lawful use or development for the siting of an additional caravan within the land edged red shown on the plan accompanying the application for residential use.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises¹ 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 PPG further explains² that local planning authorities are 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 or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include failure to produce evidence to substantiate each reason for refusal and acting contrary to, or not following, well-established case law.
4. In respect of those examples, the applicant refers to the Council's failure to apply tests from well-established case law and to substantiate its reason for refusing the certificate of lawful use or development (LDC). However, I've not been made aware that the Council was directed to any relevant caselaw and no such references have been made in support of the appeal. Reference is made to number of appeal and costs decisions, but they do not constitute caselaw.
5. I've noted the costs decision referred to in support of the costs application, which does concern the failure of a Council to apply well-established case law on the question of intensification of use. However, the Council in this case has

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

² Paragraph: 049 Reference ID: 16-049-20140306

not sought to argue on matters of intensification. That decision does not therefore support making an award of costs in this case.

6. As set out in my appeal decision, I have concluded that if the Council had refused to grant a LDC, that would not have been well-founded. I have agreed that the application need not be supported by detailed plans of the caravan and that the Council could have assumed it would meet the lawful definition for the same. That is consistent with the appeal and costs decisions submitted.
7. The applicant states that the refusal to grant a LDC because of insufficient information concerning the details of the caravan cannot be substantiated in light of those appeal decisions referred to in his planning statements.
8. That is the crux of the Council's decision for the identical application, which is used to substantiate its position for the appeal. However, it has not been shown that the appeal and costs decisions relied on by the appellant were provided to the Council at application stage, despite the evidential burden being on him to make his case on the balance of probabilities. The appellant explains he sent appeal decision reference APP/A6835/A/21/3273043 to the Council on 10 August 2022, which is about two months after the appeal was made. Even if the Council subsequently changed its position, that was too late to avoid the costs of the appeal being made.
9. It is apparent that the Council's concerns are largely based on a misunderstanding of planning law relating to caravans. While regrettable, that in itself does not amount to unreasonable behaviour.
10. The appellant makes reference to taking Counsel's opinion on the merits of an appeal and instructing Counsel to advise on the preparation and conduct of an appeal throughout the appeal process and to lodging and pursuing an appeal in accordance with the advice received. However, no such advice or opinion has been produced or referred to with the appeal submission.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

Richard S Jones

INSPECTOR