



Costs Decision

Hearing Held on 7 and 8 March 2023

Site visit made on 8 March and 11 April 2023

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2023

Costs application in relation to Appeals Refs:

APP/L3625/C/22/3302376-7, App/L3625/C/22/3302388-9 and

APP/L3625/W/22/3311492

Parcel 2, north of junction at Cross Oak Lane and Picketts Lane, Salfords, Surrey RH1 5RG

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Berry Collins and Mrs Theresa Baker for a partial award of costs against Reigate & Banstead Borough Council.
 - The Hearing was in connection with appeals, in summary, against two enforcement notices alleging a material change of use of the land for the stationing and residential use of touring and static caravans and the laying out of a means of access to a highway and against a refusal of planning permission for the material change of use of the land for residential use and the sighting of three touring and three static caravans.
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Decision

1. The application for a partial award of costs is refused.

The submissions for Mrs Berry Collins and Mrs Theresa Baker (the applicants)

2. The application is made on procedural grounds in respect of a lack of co-operation by the Council during the production of the Statement of Common Ground (SoCG).
3. The applicants also made a statement regarding the failure to receive a copy of the Council's Statement of Case from the Council. I have not considered this as being part of the cost application because the applicants were clear that they just wanted to make a public statement about the matter. The responsibilities of the parties during an appeal being decided by way of a Hearing are set out in The Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002, Rule 5 Hearing Statements.

The response by Reigate and Banstead Borough Council

4. The applicants failed to explain how they were disadvantaged and where they incurred wasted expense during the production of the SoCG. The Council co-operated fully with the applicants as evidenced by their various emails, reminder emails and drafts of the document.

Reasons

5. The Planning Practice Guidance (the Guidance) advises that costs may only be awarded against the party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense or wasted expense in the appeal process.
6. From the Council's detailed¹ response, I have no doubt they made every endeavour to prepare an agreed SoCG. The applicants' complaint seems to me to centre on the way the Council amended the document in order to progress it. The applicants may not have found this to be helpful but this does not amount to unreasonable behaviour in the context of a costs application. There also seemed to be a misunderstanding by the Council of the applicants' brief e-mail responses, which were interpreted by the Council as interim responses. Whilst this did not help with the progress of the document, it does not amount to unreasonable behaviour by the Council given they were in the process of trying to reach an agreement.
7. The applicants' final comments that they were "not familiar with the proceedings" appears to me to be the nub of the issue. Notwithstanding their frustrations, this appears to explain why there is no evidence to show how they were disadvantaged by the Council's actions.

Conclusion

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

D Fleming

INSPECTOR

¹ Details set out in the Council's costs application, not repeated here