



Costs Decision

Site visit made on 2 May 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 MAY 2023

Costs application in relation to Appeal Ref: APP/A3655/W/22/3300886

- Beech Rise, Lock Lane, Pyrford, Surrey GU22 8UX
 - 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 Woking Borough Council for a full award of costs against Mr Barry Lewis.
 - The appeal was against the refusal of planning permission for the replacement of a stable barn with a 1-bed self-build barn.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 states the appellant behaved unreasonably by submitting documents late and failing to cooperate with the Council's legal department in relation to the section 106 agreement.
4. Regarding late documents, the applicant refers a Preliminary Ecological Appraisal and Bat Scoping survey (PEABS) and 1 entitled 'APP/A3655/W/22/3300886 – appellants response to the four (4) reasons for refusals' ((4) Document).
5. The only PEABS submitted with the appeal was that which was originally submitted with the application, and as can be seen in my appeal decision, is the only version considered. Therefore, it was the applicant's decision to seek out the additional PEABS later for review, so its submission to the Council cannot be considered unreasonable behaviour by the appellant.
6. Turning to the (4) Document, the applicant states it was issued to the Council on 07 February 2023 post the start date of the appeal which was 06 February 2023. It is understood the appellant has submitted some documents during the application and appeal process by hand to the Council, rather than electronically. However, there is no evidence this was the case for the aforementioned document and I am cognisant the appellant has submitted numerous appeals in recent history so would be aware of the relevant deadlines.
7. The PPG does state that a delay in providing information or failure to adhere to deadlines as an example of unreasonable behaviour. Nevertheless, the

identification of unreasonable behaviour is only part of my consideration. It must also be clearly demonstrated how that behaviour has led to unnecessary or wasted expense.

8. I have not been provided with any evidence to show how the delay of one day for a singular document in the raft of other evidence presented would have amounted to unnecessary or wasted expense in defending the appeal. The (4) Document presents, amongst other things, as a summary of what the appellant considers to be very special circumstances, and these have been taken from matters previously brought up by the appellant within other elements of their case. It is not, therefore, so substantially novel as to require considerable resources to review and thereby I do not consider it to have caused unnecessary or wasted expense for the applicant.
9. In relation to cooperation with the Council's legal department, it is evident that there has been a level of communication between the Council's Planning Officer and the appellant in relation to the section 106 agreement. I am satisfied the Planning Officer, as a representative of the Council was a suitable person to communicate the legal department's concerns to the appellant. Nevertheless, it is clear there was a series of misunderstandings between both parties relating to the use of templates and where they might be found, the contents of the section 106 agreement, the remit of the legal department in assisting with legal agreements, and whether another form of obligation or condition could be used. Although unfortunate, and potentially having caused unnecessary confusion, I do not find that either party has behaved unreasonably with respect to this issue.
10. In conclusion, and with regard to the relevant guidance, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

RJ Redford

INSPECTOR