



Costs Decision

Site visit made on 27 June 2023

by Mr Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2023

Costs application in relation to Appeal A Ref: APP/J0405/C/22/3301703 Land at 28 Border Lane, Buckingham, Buckinghamshire MK18 7SE

- 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 Mr William Tarr for a full award of costs against Buckinghamshire Council - North Area (Aylesbury).
- The appeal was against an enforcement notice alleging the material change of use of the Land to residential facilitated through the erection of a 2.5m high closeboard fence and gate.

Costs application in relation to Appeal A Ref: APP/J0405/C/22/3301704 Land at 28 Border Lane, Buckingham, Buckinghamshire MK18 7SE

- 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 Kimya Tarr for a full award of costs against Buckinghamshire Council - North Area (Aylesbury).
 - The appeal was against an enforcement notice alleging the material change of use of the Land to residential facilitated through the erection of a 2.5m high closeboard fence and gate.
-

Decision

1. The applications for awards of costs in respect of all the appeals are 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 Council's case for the alleged material change of use of the land to residential appears to have been based on the position of the previous black metal estate fencing and their interpretation of the approved landscaping scheme for the estate. Whilst I have found the material change of use to have not occurred, the apparent incorrect positioning of the previous black metal estate fence was understandably misleading. Furthermore, the approved landscaping plans, or any other plans presented to me, do not explicitly identify the boundary line of the property. Consequently, the Council's conclusion that there was a material change of use was not unreasonable behaviour.
4. With regard to the effect of the fence and gate on the character and appearance of the area, the reasons for issuing the enforcement notice (the Notice) as set out in the Notice are complete, precise, specific and relevant. They also clearly state that the proposal would conflict with the relevant development plan policies, the National Planning Policy Framework and the National Design Guide. These reasons were adequately substantiated in the

Council's appeal statement of case. The Council were not unreasonable to include the harm they consider the fence has, although this is in relation to the fence facilitating the material change of use rather than a breach of planning control in and of itself.

5. Overall, whilst my conclusions on the ground (c) appeal clearly differ to the Council's, their case is sufficiently substantiated and I find no unreasonable behaviour on their behalf.

Conclusion

6. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award for costs is therefore not justified.

Alexander Walker

INSPECTOR