



Costs Decision

Hearing held on 14 February and 15 June 2023

Site visit made on 14 February 2023

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2023

Costs application in relation to Appeal A Ref: APP/X0360/C/20/3253078 Land at Heartwood, Sandhurst Road, Finchampstead RG40 3LT

- 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 Wokingham Borough Council for a full award of costs against Mr Lucas Dutton.
 - The appeal was against an enforcement notice alleging the change of use of the land for the storage, distribution and transfer of arboricultural waste.
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Costs application in relation to Appeal B Ref: APP/X0360/W/20/3253081 Land at Heartwood Lodge, Sandhurst Road, Wokingham, RG40 3LT

- 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 Wokingham Borough Council for a full award of costs against Mr Lucas Dutton.
 - The appeal was against the refusal of planning permission for the change of use to a mixed use of storage of agricultural products, forestry products and green waste.
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Decision

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

The submissions

2. The reasons given for the costs application are summarised as follows:
 - The appellant failed to cooperate on setting a date for the hearing, resulting in a prolonged period before the hearing was held; and
 - The conduct of the appellant's agent during the hearing resulted in the need for an additional hearing day.
3. I have had regard to the appellant's response in reaching my decision.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance on Appeals (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.
5. The costs applicant points to the various dates that were offered to the parties when a date was being set for the hearing. The first of these dates was set

when certain restrictions had been imposed as a result of the Covid19 pandemic. This was to be held as a virtual event. Whilst virtual events were being widely used at the time, it was acknowledged that there would be issues of fairness where any party had a particular problem in attending such events. Indeed, it is only fair that all individuals taking part have access to appropriate IT equipment and internet connection for such events to be successful. For this reason, the appellant is not to blame for the hearing not being held on the first date offered. That he did not ask whether or not the Council could have assisted him in this matter does not alter my conclusion.

6. Whilst the parties agreed to the second date, as a face to face event, the appellant later advised of his difficulties in attending this event as a result of his personal circumstances. I do not think the appellant was unreasonable in doing so, particularly as he gave almost 4 months notice of this.
7. Although this second date was imposed on the appellant, the applicant says that this was later postponed by the Inspectorate due to up to date advice and restrictions resulting from the changing circumstances of the Covid19 pandemic. For the same reasons as given above, the appellant cannot be to blame for this.
8. The further delay resulted from the availability of the appellant's agent. I understand the frustrations of the applicant, particularly as the appellant could have sought alternative representation. I also acknowledge the applicant's cooperation in this process. However, even if I were to regard the appellant as having acted unreasonably for this later delay, the time the applicant spent on responding to correspondence about this matter is a natural consequence of making arrangements for any appeal event. I cannot regard this as unnecessary or wasted expense.
9. Turning to the second subject of the costs application, I acknowledge that the appellant's agent took a very active part in the hearing. Whilst some of the appellant's oral submissions may have been lengthy, all parties must be given the opportunity to have their say. This is in the interests of fairness. Even if these submissions resulted in a lengthier hearing, I cannot find this to be unreasonable behaviour on the part of the appellant.
10. Whilst I note the cost applicant's comments with regard to the appellant's criticism of the Council officers, I cannot find this to be a matter of unreasonable behaviour towards which the PPG is aimed. Even if it were, it has not been demonstrated that this has resulted in unnecessary or wasted expense in the appeal process.

Conclusion

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J Moss

INSPECTOR