



Costs Decision

Site visit made on 22 January 2024

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2024

Costs application in relation to Appeal Ref: APP/N1730/C/23/3318341 Land adjacent to 36 Oldfield View, Hartley Wintney, Hook RG27 8JH

- 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 Ms Emily Sanders for a full award of costs against Hart District Council.
 - The appeal was against an enforcement notice alleging the material change of use of the Land from amenity land to residential land by the enclosure of the Land and the erection of a 1.8 metre high fence.
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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 appellant's application is fundamentally linked to the grounds of appeal. In essence it is claimed that the Council have failed to properly research the situation and establish a true breach of planning control. Furthermore, it is said that the Council did not fully review the appellant's case once the appeal was lodged. In these scenarios it is claimed that the enforcement notice (the Notice) should not have been served in the first place, and upon review, should have been subsequently withdrawn.
4. In determining the appeal, I found a lack of clarity in the Notice. However, I have been able to correct the Notice without causing injustice. The appellant's case applied equally to the corrected notice as it did to the one originally issued by the Council, and the appellant has not been put to any additional work in that regard. Moreover, I have found that the matters alleged did, indeed, constitute a breach of planning control and the Council has adequately explained its position and responded to the appellant's case.
5. While I understand that the appellant may be frustrated about the conduct of the Council in their discussions prior to the issue of the Notice, I, therefore, find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not occurred and an award of costs is not warranted. Accordingly, the application is refused.

M Bale

INSPECTOR