
Costs Decision

Site visit made on 30 July 2024

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2024

Costs application in relation to Appeal Refs: APP/Q360/C/23/3326778 & APP/Q3630/C/23/3326779

20 Wey Meadows, Addlestone, Weybridge KT13 8XY

- 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 Runnymede Borough Council for an award of costs against Mr R.J.M Black and Ms Y Williams.
 - The appeal was against the Council's decision to issue an enforcement notice against the erection of a new dwelling.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. This costs application is made by the Council in respect of both procedural and substantive grounds, relating to three specific issues. First, that the appellants withdrew their grounds (b) and (c) appeals at the start of the Inquiry; second, that the appellants continued with a reliance on paragraph 154(g) of the National Planning Policy Framework in an attempt to demonstrate that the building at issue was not inappropriate development within the Green Belt, despite its second limb being inapplicable in this particular instance; and, third, that the appellants attempted to introduce planning conditions relating to the application for planning permission deemed to have been made.
4. First and foremost it seemed apparent to me that the appellants' case lacked some cohesion and required interpretation in parts. To my mind, this was due to what appeared to be a lack of communication between the appellants and their agent. In illustration, although both appellants prepared 'statutory declarations' (SD), neither were sworn before a solicitor and Ms Williams' SD merely said she agreed with the points made by Mr Black. An error also occurred in that despite the Council having measured the unit on the site and found it to be outside the parameters of the definition of a caravan – and this formed part of the Council's evidence – the claim otherwise remained, and the appellants only retracted and withdrew the legal grounds of appeal (b and c) at the start of the Inquiry.

5. Here, when I questioned the appellant's agent, as to why this had not been addressed sooner, he claimed that the Council, at a meeting on 3 October 2023, both suggested and encouraged that these legal grounds be included in the appellants' case. As a result, grounds b and c, although not appealed at the time the appeal was first lodged, were subsequently introduced. However, having referred to an e-mail dated 6 October 2023, received from the Council's enforcement officer, there is no indication that this was the Council's stance as it merely says that, given the appellants' claim that the unit was a caravan rather than a building, these grounds should have been made at the outset. I got the distinct impression that this approach was down to the appellants misunderstanding the legal position, which is understandable as laypeople, but their agent should have advised, accordingly.
6. Nonetheless, both the Council's planning and enforcement officer, from seemingly carrying out a comprehensive investigation, would have known they were on sound ground, and the ground b and c appeals would doubtless fail. However, I did find that the Council erred by assuming the site constituted previously developed land (PDL), yet there was no indication which, prior to the identified breach, indicated that it had contained a permanent building. The appellants were of similar mind to the Council and although my findings as to the effect of the building on the openness of the Green Belt would have remained unchanged were the site PDL, I concluded that paragraph 154(g) of the Framework did not apply given the planning position.
7. Finally, I am not of the view that the appellants introducing conditions at the Inquiry, that might be imposed were I to allow the appeal and grant planning permission by way of the deemed planning application (DPA), was unreasonable. These related only to the suggested cancellation of permitted development rights and the removal of the studio building from the site. Although the Council had considered that no planning conditions could be imposed which could make the development acceptable this matter was easily dealt with and, moreover, could largely be left to my discretion.
8. I do sympathise with the Council as its case was well set out, and a lot of work had clearly been undertaken in its compilation. The appellants' case was somewhat less cogent – although, in the event, some credible points were made by their agent in relation to the DPA - but, I am not of the opinion that any general weaknesses caused the Council to undertake any significant additional work. It only illustrated that better care and attention could perhaps have been taken with the appellants' case.
9. Accordingly, for the reasons given above unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
10. I therefore refuse the application for an award of costs.

Timothy C King

INSPECTOR