



Costs Decision

Site visit made on 6 August 2024

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date 6 September 2024

Costs application in relation to Appeal Ref: APP/R3650/X/24/3343201 The Lodge, Uplands Park, Park Lane, Godalming, Surrey GU8 5LA

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by T and CPP Ltd for a full award of costs against Waverley Borough Council.
 - The appeal was against the refusal of a certificate of lawful use or development (LDC) for the proposed siting of shipping container within the land edged red on the accompanying plan for use ancillary to the lawful residential use of the land.
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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 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. It is claimed that the Council has been inconsistent in its decision making by issuing other LDCs¹ for what is described as 'this exact shipping container' at other sites. It is claimed that had the Council been consistent in its decision making, it would have issued an LDC and the applicant would not have incurred the unnecessary and wasted expense in lodging and pursuing the appeal.
4. The Council claims it has not been inconsistent in its decision making, as it followed the same approach of assessing the proposed siting of a shipping container on each particular site on a case-by-case basis, applying the relevant tests.
5. One of the other LDCs I have been referred to (titled 'Example 2' by the applicant) is in another Borough, in the midlands, and is of limited relevance to the claimed inconsistent decision making by the Council. The other LDC decisions referred to post-date the Council's decision to refuse to issue an LDC for the application the subject of the appeal. They show the Council issued LDCs for the siting of containers for uses ancillary to the lawful agricultural and residential uses of those other sites.
6. I have not been provided with all details associated with the other LDCs, but as they relate to different sites it would not be surprising if different circumstances apply to them. I have been provided with an officer report which shows the Council adopted a consistent approach by considering the relevant caselaw, but

¹ The Council's refs: WA/2024/00634 and WA/2024/01129, and North Warwickshire Borough Council's ref: PAP/2024/0107

reached different conclusions due to the specific circumstances of each proposal and site.

7. The officer report describes how the proposed shipping container could be easily moved onto and around the land the subject of that application, and why it was considered likely that it would be moved around that site. Even if this reasoning is flawed, it shows that the Council based its decision on the specific circumstances of that different site and the information it believed it had been provided².
8. Different circumstances applied in the other cases I have been referred to and I do not therefore find inconsistency in the Council's decision making. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

L Douglas

INSPECTOR

² Notwithstanding the applicant's claim that the officer report contains incorrect information