



Costs Decision

Hearing held on 8 October 2024

Site visit made on 8 October 2024

by Mr James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 23 October 2024

Costs application in relation to Appeal Ref: APP/N0410/C/22/3301854 Land on the south side of Parish Lane, Farnham Common SL2 3JH

- 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 Buckinghamshire Council for a partial award of costs against Mr Haim Ben Ami of Ratesu Limited.
 - The appeal was against an enforcement notice alleging without planning permission, the erection of two antenna masts and ancillary concrete pads, concrete blocks and storage container.
-

Decision

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

The submissions for Buckinghamshire Council

2. The application for a partial award of costs was made orally at the hearing, and was submitted on a procedural basis. Broadly speaking, the Council contends that the appellant submitted documents either late, or at a late stage, which meant it was difficult for the Council to respond properly to the appellant's case.
3. In particular, the Council says very limited information was submitted by the appellant until the deadline for Statements of Case. The Council says this meant the Council had little opportunity to respond to the appellant's case for very special circumstances. The Council further contends that the submission of late evidence just before the hearing date was unreasonable, and necessitated additional work which resulted in wasted expense.

The response by Ratesu Limited

4. The response was also made orally at the hearing. The respondent said that the costs application was misconceived, as the appellant's substantive case was made on time. Whilst late evidence was submitted in advance of the hearing, the respondent says this was necessary due to policy changes and relevant appeal decisions which had occurred in the time which had elapsed between the appeal start date and the hearing date. The respondent also highlighted that the partial award of costs had not been itemised, which meant it was impossible to ascertain the costs sought.

Reasons

5. 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.

6. Originally, this appeal was to be determined by written representations. The deadline for Statements of Case was 23 August 2022. The appellant submitted a full Statement of Case within this timescale. Their submissions included a request for a change of procedure, which resulted in a procedure review.
7. In a letter dated 5 September 2022, PINS confirmed to the parties that the procedure would be changed, and that the appeal would be dealt with by hearing. This letter confirmed a revised timetable for submission of documents. This revised timetable required hearing statements to be submitted by 17 October 2022, with final comments falling due 3 weeks later. The appellant submitted a hearing statement in accordance with this timescale. Up until this stage, the submission of documents was therefore in accordance with the timetable set out by PINS. This meant the Council had 3 weeks from receipt of the appellant's hearing statement to provide final comments.
8. The appeal was subsequently held in abeyance, and approximately 11 months elapsed between the deadline for final comments and the hearing date. During this time, there were policy changes relevant to the appeal, including a revised National Planning Policy Framework in December 2023. There were also a number of appeal decisions relevant to the issues in dispute between the parties.
9. Whilst submitted late, the appellant's updated statement and associated documents principally sought to address these policy changes and appeal decisions. The documents were submitted roughly 2 weeks before the hearing date, which meant the Council had adequate time to review them in advance of the event.
10. In the circumstances, it was reasonable for the appellant to submit these documents at a late stage. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

James Blackwell

INSPECTOR