



Costs Decision

by **A U Ghafoor BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 November 2023

Costs application in relation to: **APP/R0335/L/23/3326090**

- The costs application is made under Regulation 121 of the Community Infrastructure Levy Regulations 2010 (as amended) (hereinafter 'the CIL Reg').
 - The application is made by [REDACTED] against Bracknell Forest Council.
 - The appeal was made under section 218 of the Planning Act 2008 and under Regulations 117(1)(a) and 118 of the CIL Reg.
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Decision

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

Reasons

2. Perhaps I am stating the obvious, but parties in planning or related appeals normally meet their own expenses. Nonetheless, the claim is that the Council, as Collecting Authority ('CA'), changed its stance very late in the day resulting in additional work. New arguments were introduced to justify the CA's reasons for issuing a Demand Notice. For example, the claim that the s73 planning permission (ref [REDACTED], granted 16 May 2023) was retrospective in nature.

For the following reasons, I do not agree with these submissions.

3. To my mind, the authority incorrectly determined the deemed commencement date, and my appeal decision explains why I have disagreed with the CA's approach. Issues arising in this appeal required interpretation and application of the CIL Regs to relevant facts, and legal argument and opinion shifted on both sides of the fence. The CA focused too much energy in trying to demonstrate material operations comprised in the s73 planning permission had commenced when work started in October 2022. Had it first turned its attention to the original planning permission, it might have concluded that relevant facts show that the building and engineering operations comprised therein actually commenced in October 2022. Nevertheless, I consider that the CA submitted sufficient evidence, as well as legal argument, to substantiate its stance.
4. In circumstances where legal opinion differs as to the meaning and application of statutory provisions, arguments evolve, and the applicant was given a full and timely opportunity to make submissions. Even if the CA behaviour was deemed unreasonable, no wasted or unnecessary expense has been shown.
5. For the reasons given above, I conclude that no award of costs is therefore justified in the circumstances.

A U Ghafoor

INSPECTOR