
Costs Decisions

Site visit made on 19 September 2016

by K R Seward Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 October 2016

Costs applications in relation to Appeal Refs: APP/F2415/C/16/3146327 (Appeal A) and APP/F2415/C/16/3146689 (Appeal B)

Pine Tree Stud, Horse Hill, Goadby, Leicestershire LE7 9EE

- The applications are 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 applications are made by Mr Philip Burton (Appeal A) and Mrs Georgina Burton (Appeal B) for a full award of costs against Harborough District Council.
 - The appeals were against an enforcement notice alleging without planning permission, the change of use of the land for the stationing of a caravan and mobile home for separate residential use.
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Decisions

1. The applications are refused.

Reasons

2. Paragraph 030 of the *Appeals* section of 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 appellants seek a substantive award of costs on the basis that the use enforced against benefits from a Lawful Development Certificate (LDC).
 4. The LDC was issued in 2009 for a proposed use of land for the siting of a caravan pursuant to an application made under section 192(1)(a) of the 1990 Act. There appears to be a misunderstanding as to the status of the LDC. It is not the same as a planning permission, but proof that the use identified in the certificate is lawful and does not require planning permission.
 5. Clearly the use implemented and carried on must be the same as that for which the LDC was issued. In this particular case all that is conclusively presumed is the "siting of a caravan". Even if the LDC had specified the purpose of the caravan as being for ancillary use to the enjoyment of Pine Tree Stud as a dwellinghouse (as per the reasons), that is not the breach of control attacked by the enforcement notice. The allegation contained in the notice is for a 'separate' residential use. It is not the use for which the LDC application was made or granted.
 6. The appellants say that there was no change of use and appealed on that basis. The Council says that officers inspected the site on a number of occasions and were satisfied from what they saw that both the caravan and mobile home were in separate residential use from the main dwelling. That
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being so, they were justified in issuing the notice. There was no requirement for a Planning Contravention Notice to be issued in advance; the issue of such a notice is entirely discretionary as is clear from the text in section 171C(1) of the Act. Once a retrospective planning application to retain the units for 'ancillary accommodation' was refused, it was almost inevitable that further action would be taken by the Council.

7. The appellants are critical of the Council not taking into account their personal health issues and needs. However, very limited information appears to have been supplied. Rather, the appellants seem to have relied upon the LDC and the information given at that time instead of producing enough details for the Council to weigh in the balance. When faced with a notice alleging a separate residential use it was clearly incumbent upon the appellants to provide sufficient details to show that there was not a separate residential use. This required at least some details of how the units were being used. The appellants did not provide enough information and details regarding use of the mobile home were especially scant. As set out in my main decision, I am not satisfied that there has been no change of use.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

KR Seward

INSPECTOR