

Costs Decision

Site Inspection on 1 December 2016

by Graham Self MA MSc FRTPI

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

Decision date: 08 December 2016

Costs Application Relating to Appeal Reference

APP/P1615/C/16/3150579

Site at A48, Awre, Newnham, Gloucestershire

- 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 the appellant Mr G Moore for an award of costs against Forest of Dean District Council.
 - The appeal was made against an enforcement notice issued by the council dated 4 March 2016.
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Procedural Points

1. In the statement submitted when the appeal was lodged, there is a heading "Costs" with no text following it. The only other reference to costs among all the submitted documents comes in what should have been the appellant's final comments. It is debatable whether this was a valid application for costs, but to avoid any possible doubt I have decided to treat it as such. I suspect that the council may not have realised that the appellant's final comments included an apparent application for costs, and had I been minded to award costs I would have ensured that the council had an opportunity to respond first. In the event I have decided that this was not necessary.

Reasons

2. Decisions on awards of costs are made irrespective of the outcome of the appeal. 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. Mr Moore states that costs are sought "mainly for the tenant". I am dealing here with costs which may have been incurred in mounting the appeal. Such costs would have been incurred primarily by the appellant (or possibly the company of which he is a director), rather than by his or the company's tenant. Be that as it may, there is no case for an award of costs. I do not see anything unreasonable about the council's conduct of the enforcement and appeal process. The costs incurred by Mr Moore and his or his company's tenant have primarily been caused by what seems to have been their joint enterprise in carrying out unauthorised development.
4. I note Mr Moore's suggestion that matters could all have been resolved "over a cup of coffee", and the claim that "this sorry tale could have been amicably averted with a normal permitted retrospective planning application for the lorry box containers". However, the fact remains that unauthorised development took place; there were sound reasons in the public interest for preventing it

continuing, and the council's actions in issuing the enforcement notice were reasonable. The time for a planning application, with or without discussion over a cup of coffee, should have been before any development took place, not retrospectively.

5. I have found that the enforcement notice was flawed but this point does not amount to unreasonable behaviour. There is nothing in the way the council has conducted their side of the written representations procedure which can properly be regarded as unreasonable conduct causing the appellant to incur expenditure which he could otherwise have avoided. Indeed, taking account of the extent of irrelevant comment in the appellant's representations, Mr Moore can count himself fortunate that there is no application for costs against him.
6. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Decision

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

G F Self

Inspector