



Costs Decision

Site visit made on 11 October 2016

by Aidan McCooey BA MSc MRTPI

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

Decision date: 11 January 2017

Costs application in relation to Appeal Ref: APP/C3430/C/16/3152208 Fish Ponds Caravan Site, New Road, Featherstone, WV10 7NR

- 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 Mr Billy Joe Timmins for a full award of costs against South Staffordshire Council.
 - The appeal was against an enforcement notice (EN) alleging the unauthorised development of land for a hardstanding.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, costs may only 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. The appellant referred in particular to the examples in paragraph 49 of section 16 (Appeals) of the Planning Practice Guidance (PPG), in particular that vague, generalised or inaccurate assertions about a proposal's impact unsupported by any objective evidence has been made by the Local Planning Authority.
3. It is alleged that the Council did not specify the harm that is caused by the unauthorised development. The reasons for issuing the EN include that the development has been undertaken without planning permission. This does not amount to a reason for taking enforcement action because it must also be expedient and the development must cause harm. The harm is stated as the development is contrary to Policy GB1 of the Council's adopted Core Strategy Development Plan (CSDP). Policy GB1 refers to development acceptable within the terms of national policy set out in the National Planning Policy Framework (NPPF). The appellant points out that paragraph 87 of the NPPF is referenced by the Council for the first and only time in its response to the costs application. However, Policy GB1 does relate to the development in the Green Belt and it is clear that the Council had concerns in this regard.

4. The development is in the Green Belt and there is an existing injunction in place prohibiting any further hard surfacing works on the site. The Council's evidence together with the injunction on the site, demonstrates that it had genuine concerns with the unauthorised development leading to service of the EN. The appellant has provided extensive evidence on the effect of the development on the Green Belt and analysis of the potential harm caused. I have found that the development is inappropriate development in the Green Belt. However, I have concluded that very special circumstances exist that outweigh the harm to the Green Belt, for the reasons given. This does not mean that the Council did not have any basis for taking enforcement action.
5. The Council did not address the correct ground of appeal in its evidence. Its statement refers to ground (c), whereas the appeal was on ground (a). However, I consider that there is some evidence in the EN itself what the alleged harm to the Green Belt was and that is why planning permission would not have been granted by the Council. The planning history of the site and the existing injunction thereon demonstrates that the Council had concerns with the development on this site within the Green Belt. Whilst I have disagreed with that stance, the Council has provided some evidence to show why it considered that planning permission should not be granted.
6. I therefore find that unreasonable behaviour resulting in unnecessary expense has not been demonstrated.

A L McCooey

Inspector