
Costs Decision

Site visit made on 21 March 2017

by D H Brier BA MA MRTPI

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

Decision date: 24 March 2017

Costs application in relation to Appeal Ref: APP/Z2830/C/16/3161153 & 3161154

Land adjacent to 47a Camp Hill, Bugbrooke, Northamptonshire NN7 3PH

- 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 South Northamptonshire Council for a full award of costs against Mr R A Bird & Miss K E Hawkey.
 - The appeal was against an enforcement notice alleging the erection of a 5 bar style gate adjacent to Camp Hill and a palisade style gate/fence adjacent to Camp Close.
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Decision

1. I refuse the application for an award of costs.

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals and other planning proceedings normally meet their own expenses. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
 3. In essence, the premise underlying the application is that the appellants had not made their appeal under grounds (b) and (e) reasonably and had not provided a case that had any reasonable prospect of success.
 4. Given my appeal decision, I am unable to concur with the Council's stance insofar as ground (e) is concerned. I am satisfied that the nature of the appellants' case is such that it demonstrates that the notice was not served correctly. Indeed, the Council's acceptance that the 5 bar gate was outside the appellants' control appears to be an acknowledgment of this, even if no evidence indicating who else ought to have been served with the notice has been forthcoming. I find nothing unreasonable in the appellants' behaviour in this respect.
 5. Turning to the appeal on ground (b), mindful that this is a legal ground of appeal and the onus is upon the appellants to make their case, I am unable to identify anything that specifically supports this ground of appeal, namely that the matters alleged in the notice have not occurred as a matter of fact.
 6. On the face of it, therefore, this part of the Council's case appears to be well-founded. However, it has to be borne in mind that neither of the appellants appears to have been professionally represented. Nor is there anything before
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me that indicates that they were warned about of the possible consequences of contesting the Council's action.

7. The service of a legal document notice that purports to attack something that, as the Council subsequently acknowledged, is outside the appellants' control, seems to me to be a recipe for confusion. It is perhaps understandable therefore that the basis for an appeal on ground (b) appears to have been misunderstood. Erroneous though the appellants may have been in pursuing this ground of appeal, when regard is had to the context in which this was done, I am not inclined to equate their action with unreasonableness. In other words, in this instance, I believe that there are very compelling extenuating circumstances which outweigh any apparent shortcomings in the manner in which the appeals have been lodged.

Overall Conclusion

8. In the light of the foregoing, I consider that unreasonable behaviour resulting in unnecessary expense has not been demonstrated, and I therefore conclude that an award of costs is not justified.

D H Brier

Inspector