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## Costs Decisions

Site visit made on 10 January 2017

**by Wendy McKay LLB Solicitor (Non-practising)**

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

**Decision date: 27 March 2017**

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### **Costs application in relation to Appeal A Ref: APP/E2001/C/16/3153480 2 Ferry Lane, Woodmansey, Beverley, HU17 0SE**

- 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 R Harold for a full award of costs against the East Riding of Yorkshire Council.
  - The appeal was against an enforcement notice alleging the material change of use of agricultural/former horticultural/paddock land to a mixed use of the land namely: 1. Use for purposes in association with and incidental to the use of the dwelling house known as 2 Ferry Lane, Woodmansey; and 2. Use for storage of domestic chattels; and 3. Use for functions and events including organised functions and events for third parties; and 4. Use for the storage of goods and chattels and equipment associated with business use(s) elsewhere. Operational Development 1. The erection of a large wooden outbuilding on a concrete base on agricultural/paddock land beyond the domestic curtilage of the dwelling; and 2. Formation of a gravel hardstanding and wooden retaining structures in connection with the unauthorised uses of the land described above.
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### **Costs application in relation to Appeal B Ref: APP/E2001/C/16/3153481 2 Ferry Lane, Woodmansey, Beverley, HU17 0SE**

- 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 Mrs K Harold for a full award of costs against East Riding of Yorkshire.
  - The appeal was against the same enforcement notice the subject of Appeal A.
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### **Decisions – Appeals A and B**

1. The applications for awards of costs are refused.

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals and other planning proceedings normally meet their own expenses. However, costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG provides that awards against a local planning authority may either be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. The PPG sets out examples of situations where an award of costs might be applicable. For enforcement action, local planning authorities must carry out adequate prior investigation. They are at risk of an

award of costs if it is concluded that an appeal could have been avoided by more diligent investigation that would have either avoided the need to serve the notice in the first place, or ensured that it was accurate.

4. The claims for costs are made in anticipation that I decide on the enforcement appeals that I am unable to make the corrections to the notice which the Council suggests, and other corrections which may be necessary, as a result of the representations made by the Appellants. In such circumstances, there would be no option other than to quash the notice and the Appellants would have been put to unnecessary expense in lodging their appeals.
5. However, as is evident from my decision on the appeal, I consider that all necessary corrections and variations of the notice can be carried out without any injustice being caused to any party. The notice as corrected and varied has been upheld. The Appellants have not been put to unnecessary expense in lodging their appeals. Furthermore, I am satisfied that adequate investigation was carried out by the Council prior to the issue of the notice even though it did not issue a Planning Contravention Notice.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Wendy McKay*

INSPECTOR