

Costs Decision

Hearing and site visit held on 9 May 2017

by A U Ghafoor BSc (Hons) MA MRTPI

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

Decision date: 18 May 2017

**Costs application in relation to Appeal refs APP/T2350/C/16/3161917 and 3161918, W/16/3161673 and 3161671
Timothy House Farm, Whalley Road, Hurst Green, Clitheroe BB7 9QL and
Lambing Clough Lane, Hurst Green**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 [‘the Act’] and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ribble Valley Borough Council for a full award of costs against Mr and Mrs Nutter.
 - The hearing was in connection with an appeal against an enforcement notice alleging the material change of use of the land from agriculture to a mixed agricultural and residential use facilitated by the stationing of a caravan, and refusal to grant planning permission for sitting of a static caravan and outline planning permission for construction of a permanent farm worker’s dwelling.
-

Decision

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

The submissions for Ribble Valley Borough Council

2. The following key points form the basis of this application. Mr and Mrs Nutter failed to engage with the local planning authority, especially with officers to discuss application for outline planning permission. There is evidence of two email communication raising the prospect of agreeing statement of common ground; but there was no meaningful response. Had Mr and Mrs Nutter co-operated the appeal against refusal of outline planning permission might have been avoided. This has caused delay at the Hearing.

The response on behalf of Mr and Mrs Nutter

3. A statement of common ground would not have achieved a great deal, given the extent and depth of the disagreement between the appeal parties. There is a difference of opinion between agricultural experts as to how the identified functional need can be satisfied in terms of accommodation. It is unlikely negotiations would have yielded a positive outcome. Therefore, there was no alternative but to appeal against the enforcement notice.

Reasons

4. On the balance of probabilities and for the following reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated in this case.
 5. The right of appeal should be exercised in a reasonable manner, but Mr and Mrs Nutter protected their interest in the land by submitting an appeal against
-

the enforcement notice. For administrative purposes the two section 78 appeals were linked to the main appeal made under s 174 of the Act.

6. The reasons for issuing the enforcement notice and refusing planning permission raise matters of acknowledged importance. It is difficult to see how matters could have been resolved given that the Council issued the enforcement notice requiring removal of the caravan from the land within three months. I do not find any evidence of deliberate resistance to, or lack of co-operation with the Council in providing information. Delay had not been caused by reason of prevarication. Information had been provided during the Council's investigation, site visits and at planning application stage.
7. Mr and Mrs Nutter obtained professional advice and formulated their case on the basis of agricultural need. While I have not found favour in the appellants' case, they submitted sufficient evidence to substantiate all of the grounds of appeal.
8. Unlike planning appeals, or s 174 appeals following the Inquiry procedure, there is no requirement for a statement of common ground to be submitted for enforcement appeals following the Hearing procedure¹. This is reflected in guidance published by the Inspectorate². I appreciate that a written statement of agreed matters may assist the process but common facts were swiftly established and agreed in a timely manner at the oral event. I reject the notion that absence of a written and formally signed statement of common ground delayed the Hearing.
9. I therefore conclude that the application is without merit. An award of costs, partial or full, is unjustified in this case.

A U Ghafoor

Inspector

¹ See The Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002 and The Town and Country Planning (Enforcement) (determination by Inspectors) (Inquiries Procedure) (England) Rules 2002.

² See the Procedural Guide Planning appeals – England (August 2016) and Procedural Guide Enforcement notice appeals – England (March 2016).