
Costs Decision

Site visit made on 21 November 2017

by Elizabeth Jones BSc (Hons) MCTP MRTPI

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

Decision date: 09 January 2018

Costs application in relation to Appeal Ref: APP/P0119/C/17/3180762 Land at Greystones 213 Down Road, Winterbourne Down, Bristol BS36 1AU

- 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 Gloucestershire Council for a full award of costs against Mr D Jenkins.
 - The appeal was against an enforcement notice alleging the erection of green fencing and associated floodlights and netting.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that 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 Council submits that the appellant acted unreasonably because the appeal had no real prospect of succeeding.
4. The PPG states that an appellant is at risk of an award of costs being made against them if the ground of appeal had no reasonable prospect of succeeding. This may occur when:... the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
5. As detailed in my appeal decision I have found that the development is inappropriate development in the Green Belt which is harmful to the character and appearance of the area. These findings are congruent with the Council's reasons for issuing the enforcement notice. I recognise that the effect of a development on the character and appearance of the area is primarily a matter of judgement. I have found the appellant's submissions were insufficient to clearly outweigh the harm and thus the very special circumstances necessary to justify the inappropriate development in the Green Belt do not exist.
6. Notwithstanding my findings in the appeal decision, the appellant put forward sufficient written evidence to address the Council's concerns and why he considered the development was not inappropriate development in the Green

Belt as a provision of appropriate facilities for outdoor sport/recreation with adequate reference to the development plan and national planning policy. There is no dispute between the parties that the development is a means of enclosure surrounding an area used for sport/recreation purposes by the appellant's family. Thus, my appeal decision does not turn on whether or not these facilities are used for tennis or football.

7. Although I came to a different conclusion regarding the appellant's suggested fall-back position, I consider that the appellant put forward sufficient information to argue his case as to why he considered the appeal site benefitted from permitted development rights.
8. I consider that the appellant provided reasoned justification as to why a decision in his favour might be reached. Thus, the appellant did not act unreasonably in making an appeal. The costs incurred by the Council in defending the appeal were the normal costs arising when the appellant's right of appeal is exercised.
9. For the above reasons, and with regard to all other matters raised, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Elizabeth Jones

INSPECTOR