
Costs Decision

Hearing Held on 10 April 2018.

Site visit made on 10 April 2018.

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 05 June 2018

Costs application in relation to Appeal Ref: APP/T2350/C/17/3180028 Demesne Farm, Newsholme, Gisburn BB7 4JF

- 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 by Ribbles Valley Borough Council for a partial award of costs against William Oldfield.
 - The hearing was in connection with an appeal against an enforcement notice alleging the material change of use of the land from a use for agriculture to a mixed use of the land, comprising land used for agriculture and for the stationing of a static caravan on the land for residential use.
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Decision

1. The application for a partial award of costs is refused.

The submissions for the Council

2. During the process, the appellant's agent had given the impression that the Council had been unreasonable to issue an enforcement notice. The council had offered to delay the process in order for a planning application to be made, which they saw as the proper and sensible approach that would have avoided the need for an appeal. There was a marginal difference between the parties, which could have readily been resolved, and it was with reluctance that the Council were applying for costs.
3. A partial award should be made to cover additional and unnecessary time spent as a result of the Hearing.

The response for the appellant

4. Although the appellant has correspondence recording activity on the farm, there had not been time to gather sufficient evidence show the use had been continuous for 10 years or more. The enforcement notice was issued, but there was no obligation upon the appellant to submit a planning application, or to give up his rights to pursue an appeal under the enforcement procedures. On the other hand the Council have had the opportunity to resolve any differences between the parties, but they had vehemently argued on the functionality of the farming operation.
5. In any case, the claim is marginal, and the appellant himself seeks no award. The application for a partial award of costs should be rejected.

Reasons

6. I have determined the application in the context of the government's Planning Practice Guidance. This includes the advice 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.
7. There had been correspondence between the Council and the appellant's agent in September and early October 2017, in which the Council suggested that should a planning application be made for retention of a caravan as an agricultural dwelling, and an application for a Lawful Development Certificate for siting a residential caravan for seasonal agricultural use, then the enforcement notice would be withdrawn.
8. The agent had advised the appellant to take this course of action, and drafted a planning statement/agricultural appraisal in anticipation. However, he had been unable to obtain instruction from the appellant either way. In the event, the enforcement appeal had proceeded.
9. It may have been advisable, and perhaps more efficient in terms of time, for the appellant to make the applications as suggested, and for the notice to be withdrawn. However, on the evidence before me, the enforcement notice had been issued some 3 months before that particular discussion had commenced. There is nothing to suggest that there had been any previous suggestions about making applications for planning permission and a LDC – for instance, between the time of the appellant submitting the response to the Council's Planning Contravention Notice on 28 April 2017, and issue of the enforcement notice on 9 June 2017.
10. While it may have been proper and sensible to make the applications, and possibly avoid an appeal, I do not consider it amounted to unreasonable behaviour to continue with a process that was already under way before the alternative suggestion was made. Although differences between the parties were relatively slight, there could be no guarantee that the suggested applications would be successful.
11. I conclude that the appellant did not behave unreasonably in continuing with his appeal, and that unnecessary or wasted expense – as described in the Planning Practice Guidance – was therefore not incurred. I intend to refuse the application for a partial award of costs.

Stephen Brown

INSPECTOR