
Costs Decision

Site visit made on 26 June 2018

by D E Morden MRTPI

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

Decision date: 29 August 2018

Costs application in relation to Appeal Ref: APP/E2205/X/17/3179915 Corner House, Leacon Lane, Charing, Kent, TN2 0EE

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Mr & Mrs G Rigden for a full award of costs against Ashford Borough Council.
- The appeal was against the refusal of a certificate of lawful use or development for the siting of a mobile home in the garden as additional accommodation to Corner House.

Decision: The application for an award of costs is refused.

Reasoning

1. The appellant's application and the Council's response were set out in full in writing at the appeal stage and there is, therefore, no reason to repeat them here. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
2. The appellant claimed that the Council's decision was based on its misapprehension that it was dealing with a twin unit caravan which it was never claimed to be by the appellant. Whilst I acknowledge that appears to be the case from the Council's representations, it was also stated that it was considered that what had taken place was operational development and there was not therefore a caravan on site.
3. That concurs with my own view of what took place on the land. As I stated in my decision it is not a clear cut matter and I consider that the Council was entitled to make that argument whether I had agreed with that or not. The appellant stated that the Council had not followed PINS guidance and had failed to enter into constructive discussions. The Council's response to the application for costs disputes that and encloses a chronology of what happened (from its point of view).
4. In my view there were discussions but it is also clear that the two parties disagreed about whether what was going on site needed planning permission or not and it was also not agreed about where the development ought to be located. There were discussions but when the two sides have very different views about the development it will always seem to one side at least that the discussions were not constructive.

Conclusion

5. Taking all these facts into account I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and I will dismiss the application.

D E Morden

INSPECTOR