

Costs Decision

Site visit made on 17 September 2018

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

Decision date: 02 October 2018

Costs application in relation to Appeal Ref: APP/M0933/C/17/3184315 & 6 Monton, 10 Cart Lane, Grange-over-Sands LA11 7AB

- 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 Ms F Hasson for an award of costs against Mr Trevor Wilson and Miss L Hadwin, and against South Lakeland District Council.
 - The appeal was against an enforcement notice alleging a single building operation to increase the height of the eaves, ridgeline, garage and roof plane together with the construction of a box dormer window roof extension.
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Decision

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

Reasons

2. The National 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.
3. A critical phrase in the aforementioned advice is 'in the appeal process'. In this regard the Applicant has referred to circumstances relating to the grant of an LDC in June 2015, to Planning Committee meetings, and to the previous enforcement action and the subsequent appeal. All of these circumstances can be set aside because 'the appeal process' is that which has occurred since the submission of an appeal against the issue of the second enforcement notice in August 2017. The circumstances leading up to the issue of the notice were protracted but neither this nor any actions taken by the Council or the Appellants up to that point are relevant to the application for costs.
4. The appeal was reasonably made and the Appellants are entitled to appeal under any ground that they consider to be appropriate. Their Agent has substantiated the grounds of appeal by the submission of evidence and the Appellants have not acted unreasonably during the appeal process. That the process has also been protracted is no fault of the Appellants, or the Council.
5. The Council considered the conclusions reached by the previous Inspector in his finding that the first enforcement notice was invalid and in his decision to quash the notice, and determined that the issue of a second enforcement notice was required. This was not unreasonable. They have complied with all necessary procedures, have substantiated their issue of the notice, and have not acted unreasonably during the appeal process.

6. The Appellants and the Council have not acted unreasonably during the appeal process and the Applicant has not thus incurred unnecessary expense.

John Braithwaite

Inspector