
Costs Decision

Site visit made on 3 July 2019

by Sandra Prail M.B.A., LL.B (Hons), Solicitor (non practising)

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

**Costs application in relation to Appeal Ref APP/U1430/C/18/3201354
Land at 1 & 2 Lamberts Cottages, Battle Hill, Battle, East Sussex, TN33 0BL**

- 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 Mr Peter Arnold for a full award of costs against Rother District Council.
 - The appeal was against an enforcement notice which alleged without planning permission operational development comprising (i) the siting of a mobile log cabin/chalet within the curtilage of a listed building which has been adapted in a way that it now holds sufficient permanence requiring planning permission (the Chalet Unit) and (ii) the erection of an ancillary office outbuilding within the curtilage of a listed building (the Office Outbuilding) and a material change of use of the land within the curtilage of a residential dwelling for the siting of a mobile log cabin/chalet (the Chalet Unit) as a separate residential unit unconnected with the main dwelling house.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that irrespective of the outcome of the appeal, 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. The Guidance provides that a local planning authority is at risk of an award of costs if it acts contrary to, or does not follow, well-established case law. It also provides that a local planning authority must carry out adequate prior investigation.
4. The Appellant argues that the Council failed to properly apply established case law concerning whether a structure comprises operational development and the law concerning caravans. My attention is drawn to an appeal decision concerning a different site but I do not know the circumstances of that case and have determined this appeal on its own particular facts.
5. In my substantive decision I do not support the Appellant's appeal concerning whether the Chalet Unit amount to operational development. In the representations before me the Council adequately addresses the legislation concerning caravans including the size, mobility and construction tests. They also address the established factors which determine whether a

structure comprises a building. The fact that the Appellant formed a different conclusion does not make the Council's assessment unreasonable. I do not find that the Council acted contrary to or failed to follow well-established case law or legislative provisions.

6. My attention is drawn to an appeal decision concerning a caravan with a verandah. But each case is determined on its merits and the Council applied the correct tests to the circumstances of the case before it.
7. The Appellant also argues that the Council has provided no evidence to contradict the statements he made in his response to a Planning Contravention Notice. I agree that the Council provided no counter evidence with respect to the ground (b) appeal and simply accepted that there had been part compliance with the notice. But as the Council did not challenge this ground of appeal I do not consider that its behaviour led to unnecessary or wasted expense by the Appellant.
8. For the reasons given, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. I conclude that the award of costs sought by Mr Peter Arnold against Rother District Council is not justified. The application should be refused.

S. Prail

INSPECTOR