



Costs Decision

Site visit made on 22 October 2019

by Simon Hand MA

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

Decision date: 28 October 2019

Costs application in relation to Appeal Ref: APP/J0405/X/19/3225877 Greenlands Oak Farm, Brackley Road, Water Stratford, Bucks, MK18 5DP

- 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 Nigel Surman for a full award of costs against Aylesbury Vale District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for proposed replacement of an existing mobile home with a new twin unit mobile home foul water services to be linked into existing septic tank system.
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Decision

1. The application for a partial award of costs is allowed in the terms set out below.

Reasons

2. 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.
3. The appellant is concerned about legal advice the Council received concerning a previous LDC application, which was also relied on in the appeal application. However, this advice concerned the height of the caravan and confirmed the proposed unit would be within the size limits. As the refusal was for other reasons, the legal advice is of little relevance for the issue of costs.
4. The application was refused because the proposed mobile home failed on two grounds, the construction test and the mobility test. The appellant provided evidence in the form of a surveyor's report and a crane hire quote that purported to show the mobile home actually passed both tests. However, as the Council point out, neither of these documents related to the appeal proposal, but to a different mobile home, albeit one made by the same company.
5. In my view the mobile home subject to the appeal was at the very limit of what could be considered to be a mobile home. As the Council point out the company supplying the unit make a large number of different types and it is not unreasonable that evidence should be provided to demonstrate the type under consideration here is actually capable of being constructed and moved in the manner proposed.

6. However, once that evidence was provided during the course of the appeal, it should have been obvious that without any counter evidence the appeal would be lost. At no point have the Council provided any evidence of their own so from the time they received the appellant's statement on 2 July 2019, with the updated surveyor's report, they were unreasonable not at that point to agree the LDC should be issued. As there was no site visit, only a small amount of expense was incurred in final comments, but that was wasted and a partial award of costs on that basis is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Aylesbury Vale District Council shall pay to Mr Nigel Surman, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred after the date of 2 July 2019; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Simon Hand

Inspector