



Costs Decision

Site visit made on 27 May 2020

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 01 July 2020

Costs application in relation to Appeal Refs: APP/Y9507/C/19/3236310 & 3238955

Land at Cams Hill Lane, Hambledon, Hampshire PO7 4RQ

- 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 & Mrs S Toms for a full award of costs against South Downs National Park Authority.
 - The appeal was against an enforcement notice alleging the material change of use of the land from agricultural use to use for equestrian purposes; the erection of enclosures and the erection of a stable building, including tack room and hay store.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 application is made on the grounds that the Council failed to apply its enforcement powers proportionately and expediently in that the notice was unreasonably served after an appeal was made against the planning refusal for the stable building and that it should have been withdrawn following the S78 planning appeal being allowed¹.
4. The Council point out that the enforcement and planning appeals were made at the same time and that the notice states that there has been a material change of use of the land from agriculture to equestrian use, as well as the unauthorised operational development of the stable block. I agree that such a material change of use has occurred, as set out in my decision.
5. The Council was quite entitled to serve the notice when it did. In fact, it was served on 13 August 2019, some time following the refusal of planning permission for the stable block on 10 May 2019. Both appeals were made on 2 September 2019. There is nothing in law that precludes a Local Planning Authority from serving an enforcement notice prior to the determination of a S78 appeal for the same development. Indeed, the notice could have been served at the same time as the planning refusal.

¹ APP/Y9507/W/19/3236309 (LPA Ref: SDNP/18/05450/FUL) – Appeal allowed 27 January 2020

6. Even if the Council had not cited the material change of use of the land it had no reason for withdrawing the notice, because the grant of planning permission in the S78 appeal decision means that the notice will now cease to have effect in so far as it is inconsistent with the planning permission granted.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Nick Fagan

INSPECTOR