



Costs Decision

Site visit made on 6 July 2020

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2020

Costs application in relation to Appeal Ref: APP/X1165/C/19/3238058 Land at 'Woodend', Lincombe Drive, Torquay TQ1 2LP

- 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 Adrian Knott for a full award of costs against Torbay Council.
 - The appeal was against an enforcement notice alleging without planning permission, the change of use of the main villa and its gardens and swimming pool area, all shown hatched black on the plan ('the Villa'), from Class C3 (residential) to commercial holiday accommodation.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals and other planning proceedings normally meet their own expenses. Costs may however 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. Unreasonable behaviour in this context is either procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
3. The PPG confirms that the aim of the costs regime is, amongst other things, to encourage all involved in the appeal process to behave in a reasonable way and follow good practice; to encourage local planning authorities to properly exercise their development management responsibilities; and to discourage unnecessary appeals.
4. The appellant claims that the Council has acted unreasonably in terms of procedural matters when issuing 2 notices relating to the same appeal site and the same activities. One of the notices ('notice b'¹) was withdrawn following the lodging of appeals against both notices. That resulted in an application for costs by the appellant and which has already been the subject of a decision in which a partial award was made. It was considered that the appellant had made an unnecessary appeal and therefore incurred wasted expense as a result of the withdrawal of 'notice b'. It was also acknowledged in that costs decision that there would have been duplication in the submissions of both appeals which limited the costs award.

¹ APP/X1165/C/19/3238061

5. I consider that I do not need to reconsider the reasonableness or otherwise of issuing 2 notices and the merits of either. The remaining notice was valid and has been upheld. The appellant does however consider that there were inadequate investigations carried out by the Council prior to the issuing of the notices. The evidence submitted with the appeal against the remaining enforcement notice was clearly put and demonstrated a joined-up effort across the various services of the Council which helped to verify the evidence from third parties. It is clear that there was a breach of planning control, the difficulty the Council had was how to describe the activities but I consider they did so adequately.
6. I do not therefore consider that the Council behaved unreasonably in the events leading up to the issuing of the notice, other than to the extent that has already been covered by the costs decision in relation to 'notice B'.
7. I have upheld the enforcement notice albeit with some minor corrections and variations. The Council had not fundamentally erred in the wording of the notice however and did not therefore act unreasonably in that respect.

Conclusion

8. The Council has not acted unreasonably with respect to the procedural or substantive aspects of the appeal. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

A Harwood

INSPECTOR