



Costs Decisions

Site visit made on 8 September 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2020

Costs application in relation to Appeal A Ref: APP/U1430/X/20/3254035 Silverhill Pump Business Unit, Bodiam Road, Silverhill, Hurst Green TN19 7QD

- 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 Ms E Beckford for a full award of costs against Rother District Council.
 - The appeal was against the refusal of the Council to issue a certificate of lawful use or development for a Lawful development certificate for a proposed extension of an existing B8 Use Class business unit.
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Costs application in relation to Appeal B Ref: APP/U1430/X/20/3254036 Silverhill Pump Business Unit, Bodiam Road, Silverhill, Hurst Green TN19 7QD

- 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 Ms E Beckford for a full award of costs against Rother District Council.
 - The appeal was against the refusal of the Council to issue a certificate of lawful use or development for the proposed provision of an area of external, permeable hard standing totalling 310 sq.m.
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Decision

Appeal A

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

Appeal B

2. The application for an award of costs is dismissed.

Reasons

3. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
4. The claim for a full award of costs by Ms Beckford for both appeals is broadly similar. They do however, differ in their detail, where it relates to the particular Class of the GDPO, namely Class H for Appeal A and Class J for Appeal B. In summary their case is that, the Council's decisions were unreasonable as they

were based on a misunderstanding of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). This has resulted in the appellant having to seek legal advice and pursue this appeal, incurring unnecessary expenditure.

5. In response the Council are of the view that, although they may have come to a different conclusion with their interpretation of the GDPO, that does not necessarily mean that it has acted unreasonably.
6. It will be seen from my decisions, that in relation to the extension (Appeal A), I have found that the Council's decision was not well founded and that a certificate should be granted. The difference of opinion over the extent of the curtilage (Appeal B) is a fact and degree judgement and I have agreed with the Council's decision in this regard.
7. The Council are required to exercise due diligence prior to coming to a decision. Whether or not the proposals would be used for the same undertaking is a matter of interpretation. However, albeit that I have come to a different conclusion, the Council have provided evidence to explain their interpretation of the GDPO. Moreover, it is clear from their evidence, that requests were made to the appellant's agent for additional information, regarding the current use of the building and for the advice provided by Andrew Tabachnik QC to be shared. This information was not forthcoming. Whilst it is the appellant's right not to share such information, to my mind the Council sought to make their decision with the benefit of the available evidence.
8. For these reasons I find the Council's actions do not amount to unreasonable behaviour, leading to unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated for either Appeal A or Appeal B. Accordingly, I refuse the applications for awards of costs against the Council.

Hilary Orr

INSPECTOR