
Costs Decision

Site visit made on 12 October 2020

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 11 November 2020

Costs application in relation to Appeal Ref: APP/D3125/X/20/3250345 Manor Farm, Park Road, Combe OX29 8NA

- 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 & Mrs Green for a full award of costs against West Oxfordshire District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for 'the proposed siting of a caravan, within the garden grounds of Manor Farm, Combe, for ancillary residential use'.
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Decision

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

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 basis for the appellants' costs application is essentially that the Council: predicated the entirety of their case on a judgment that the appellant considers has no relevance to the siting of a caravan – being the *Woolley chickens* judgment¹; has failed to produce any directly relevant decision of the Courts (or an Inspector) that would set aside the principle established in the *Wealden* case² that planning control for the placing of a caravan on land depends solely on the concept of a material change of use; and disregarded the decisions of a number of planning inspectors. Thus, the appellant considers that the Council has acted contrary to well established case law. I shall deal with each of these allegations in turn.
4. Although representations from the Council indicate that it considers the *Woolley chickens* judgment to be of relevance to the assessment of the proposal, it is clear that the Council did not predicate the entirety of their case on this judgment. On the contrary, the Council made specific reference to the *Measor*³ case, and to judgments in the *Cardiff Rating Authority*, *Barvis*, and *Skerritts* cases⁴, all of which were of relevance to my determination.

¹ *R (oao Save the Woolley Valley Action Group Ltd v Bath and North East Somerset Council* [2012] EWHC 2161 (Admin)

² *Wealden DC v SSE & Day* [1988] JPL 268

³ *Measor v SSETR & Tunbridge Wells DC* [1999] JPL 182

⁴ *Cardiff Rating Authority v Guest Keens* [1949] 1 KB 385; *Barvis v SSE* [1971] 22 P&CR 710; *Skerritts of Nottingham Ltd v SSETR & Harrow LBC (No.2)* [2000] EWCA Civ 5569

5. Whilst the Council has not produced any decision of a Court or Inspector indicating that the principle established in *Wealden* should be set aside as such, it did rely on the *Measor* case to make the point that the Courts have not found that a 'statutory caravan'⁵ can never be a building.
6. Finally, whilst the Council has disagreed with the decisions of a number of planning inspectors, it has set out in some detail its basis for doing so, making reference to case law. Thus I do not find that these decisions have been disregarded by the Council.
7. Drawing these points together, I find that the Council has not acted contrary to well established case law and so has not acted unreasonably. Consequently, it is not necessary to consider the question of wasted expense.
8. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is not therefore justified.

V Bond
INSPECTOR

⁵ i.e. one falling within the definitions contained in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968