The Planning Inspectorate

Costs Decision

Site visit made on 29 September 2020

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2020

Costs application in relation to Appeal Ref: APP/P0119/C/19/3226472
Land on the south side of Lansdown Lane, Bitton, Bristol

- 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 David Hawking for a full award of costs against South Gloucestershire Council.
- The appeal was against an enforcement notice alleging erection of a building; erection of wooden structure with raised platforms; without the benefit of planning permission.

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that 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.

3. The appellant had invited the LPA to withdraw the notice for two reasons. Firstly, the appellant submitted evidence to the LPA which demonstrated to the LPA's satisfaction that the wooden structure which formed part of the alleged matters was substantially complete more than four years before the notice was issued. Secondly, the plan attached to the notice included land outside of the appellant's ownership.

4. In respect of the first point, the LPA resolved this matter by issuing notice on 6 November 2019 under section 173A(1)(b) of the 1990 Act to waive the requirement to demolish and remove the wooden structure. This has the effect of planning permission being deemed to be granted for the erection of wooden structure with raised platforms in accordance with section 173(11) of the 1990 Act, provided all requirements of the notice have been complied with. Given that the LPA's actions were responding to evidence put forward to it by the appellant, I see nothing unreasonable in the approach the LPA took in respect of that matter.

5. Secondly, the LPA acknowledged its error with regard to the plan attached to the notice and provided a revised plan to the appeal which correctly identified the land to which the notice relates. As set out in my appeal decision, there is no indication that the appellant had been misled or prejudiced by the original plan. The LPA has submitted an amended plan to substitute for the original plan and I am satisfied that I was able to correct the notice to include the revised plan, since no injustice would arise to either the LPA or the appellant in

that instance. I therefore consider the LPA's behaviour in respect of this matter was not unreasonable.

6. The appellant indicates that it is apparent that the LPA considered the building was in residential use. However, the use of the building does not form part of the matters enforced against. Whilst reference to residential use is included within the reasons for issuing the enforcement notice, it also states that "to date, no adequate information has been provided to explain the present or proposed use of the building, or reasons for its construction." It seems to me that, in the absence of being satisfied with such information, it was not unreasonable for the LPA to issue the notice on the basis of what it had observed at its officer site visits.

7. Either way, as can be seen from the LPA's submissions in respect of the appeal, even if the LPA had accepted at the time the notice was issued that it was in use for leisure purposes as indicated by the appellant, the notice was likely to still have been issued since in the LPA's view it would still amount to inappropriate development in the Green Belt. As can be seen from the appeal decision, I too have come to the same view that the building, and its use for leisure purposes as indicated by the appellant, amounts to inappropriate development to the Green Belt having regard to the relevant local plan policies and the National Planning Policy Framework. On that basis, I cannot consider the LPA's behaviour to be unreasonable in this instance.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

J Whitfield

INSPECTOR