
Costs Decision

Site visit made on 1 December 2020

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2020

Costs application in relation to Appeal Ref: APP/A0665/X/20/3259215 Orchard Park, Orchard Park Lane, Elton CH2 4NT

- 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 Wyldcrest Parks (Management) Ltd for a full award of costs against Cheshire West and Chester Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the erection of new fencing and the alteration of existing fencing on the boundary of a caravan site.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 applicant's application for costs relates to substantive matters and relies to a significant extent on their view that the development constitutes permitted development and, that the Council acted unreasonably in advancing an argument that had no realistic prospect of success.
4. I have some sympathy with the applicant because whilst the Council stated that they do not agree with the applicant's interpretation of the legislation, there was little explanation for their disagreement, and I consider this was unhelpful. Additionally, there is no requirement for an applicant to engage in pre-application discussions with the Council.
5. However, the burden of proof in such cases rests with the applicant and I have considered the appeal based on the evidence before me and on my understanding of the legislation. As is evident from my decision, I have also found that the development would not constitute permitted development and therefore, I conclude that the appeal could not have been avoided.

Conclusion

6. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Felicity Thompson

INSPECTOR