
Costs Decisions

Site visit made on 18 February 2021

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 April 2021

Costs applications in relation to Appeal Ref: APP/X0360/C/20/3259263 Loddon Park Farm, New Bath Road, Twyford, READING RG10 9RY

- The applications are 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 applications are made by Mr Oliver Rock and Wokingham Borough Council for partial awards of costs against each other.
 - The appeal was against an enforcement notice alleging a material change of use of land to residential use comprising a walled garden.
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Costs applications in relation to Appeal Ref: APP/X0360/C/20/3259267 Loddon Park Farm, New Bath Road, Twyford, READING RG10 9RY

- 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 applications are made by Mr Oliver Rock and Wokingham Borough Council for partial awards of costs against each other.
 - The appeal was against an enforcement notice alleging the erection of a building and a propagation structure.
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Decisions

1. The applications are all 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 appeals are associated with other appeals against the refusal of planning permission for, and the issuing of an enforcement notice against, a residential dwelling situated in the same field as the walled garden and its constituent buildings. The appellant's appeal against that other enforcement notice was brought on ground (a), namely to raise a deemed planning application for the dwelling, and on ground (g), contending that the time allowed for compliance with the notice was too short.
4. Initially the appellant sought to appeal all 3 notices as one, raising the same grounds; however, given the existence of separate notices, the Inspectorate created separate appeal references for each one. The appellant was not invited to recreate the appeal form for each, and each appeal subsequently proceeded under the original grounds.

The Council's applications

5. The Council's case for claiming costs is essentially that the appellant has failed to justify the ground (g) appeal in either of the instant notices. His case was

entirely parasitic on the ground (g) appeal in his 'main' appeal, against the enforcement notice concerning the dwelling. The appellant's ground (g) case refers, says the Council, only to the time that it will take the appellant to find somewhere else to live, and bears no relation to the subject of the two instant appeals. The requirements of the notices in the instant appeals are essentially to undo the works to create the walled residential garden and its two constituent structures in the form of a brick shed and a propagation structure with a walled base.

6. Whilst I accept that the appellant's submissions in the case have largely concentrated on the requirements concerning the dwelling, I consider by implication that his appeal on ground (g) will have encompassed the requirements in relation to the walled garden. He cites the difficulty of having to finance the removal of the dwelling, and contends that six months is not a sufficient amount of time to be able to do this and remove all trace of the works. Although I have not allowed the ground (g) appeal in relation to any of the notices, I do not find that it was unreasonably brought in relation to the dwelling. It seems to me that, in relation to the limited scale of the development that has been carried out here, a reasonable response to the notices would be to seek to contract for the removal of the physical works as a single operation, rather than to separate out the demolition and removal of the walled garden (and/or its constituent buildings) from the works to remove the dwelling. Therefore, although not expressly separately justified by the appellant, I find that the appeals on ground (g) against the instant notices could reasonably have stood or fallen with the appeal on ground (g) against the notice concerning the dwelling. For this reason I do not find the appellant's appeals on ground (g) against the instant notices to have been made unreasonably, and it follows that I do not find that the Council has been put to any unnecessary or wasted expense in contesting those appeals.

The appellant's applications

7. The appellant contends that the Council has acted unreasonably in making costs applications, and seeks his costs of defending these. The appellant's defence to the Council's costs applications is predicated upon him having no interest in the land to which the notices relate. As the Council points out, this is not raised in the substantive appeal.
8. The Council is correct to point out that the appellant has not expressly set out any justification for his appeals on ground (g). Although I have refused the Council's applications for costs awards, in the light of this I do not consider that the Council's costs applications were made unreasonably. Hence I do not consider that the appellant has been put to unreasonable expense in defending them.

Conclusion

9. Unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated by any party and all of the costs applications are therefore refused.

Laura Renaudon

INSPECTOR