



Costs Decision

Site visit made on 26 February 2021

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th May 2021

Costs application in relation to Appeals Ref: APP/D0121/C/20/3258014 & 3258019

Worships Farm, Row of Ashes Lane, Redhill, Bristol BS405TU

- 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 Mr Andy Lane and Mrs Nicola Lane for a full award of costs against North Somerset Council.
 - The appeals were against an enforcement notice alleging: without planning permission, (1) the creation of a new access (labelled A on the attached plan); and (2) without planning permission the conversion of the barn to holiday accommodation not in accordance with planning approval 14/P/0012/F.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance on Appeals (the 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. In summary, the costs application is made on the following basis:
 - The Council has failed to consider the expediency of issuing the notice, including the impact of the additional built form and the permitted development fall-back position;
 - The Council has alleged an unlawful change of use, but has previously approved the residential occupation of the unit in 2014; and
 - The Council has issued four notices in respect of the same alleged breach, two of which have been quashed at appeal and the third withdrawn. The Council has acted unreasonably in issuing a further notice.
4. The first two reasons relate to the substance of the Council's case. As I have quashed the enforcement notice, I have not considered the grounds of appeal, including whether there is a fall-back position, the effect of the development on the surrounding area or whether the use of the land and building is lawful. As such, I am unable to conclude that unreasonable behaviour on the part of the Council has been demonstrated in this regard.
5. With regard to the third of the applicants' reasons for the costs application, section 172(1) of The Town and Country Planning Act 1990 as amended (the

1990 Act) states that a local planning authority may issue a notice where it appears to them that there has been a breach of planning control; and that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations. The Council are entitled to exercise its powers under these provisions. Furthermore, the notice identifies a breach of planning control and states why it appears to the Council that it is expedient to issue the enforcement notice. Whilst I have not considered the reasons for the issue of the notice, I am satisfied that its issue complies with section 172(1)(a) and (b) of the 1990 Act.

6. In issuing the notice the Council has relied upon the provisions of section 171B(4)(b) of the 1990 Act. Whilst it is unfortunate that the notice before me is the third to be quashed at appeal, I cannot conclude that the Council have acted unreasonably in issuing it, particularly as the provisions of the 1990 Act I have mentioned above allow for the Council to pursue such action.
7. To conclude, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. Accordingly, an award for costs is not justified.

J Moss

INSPECTOR