



Costs Decision

Site visit made on 27 April 2021

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2021

Costs application in relation to Appeal Ref: APP/V2635/C/20/3259251 Land at Holly House Farm, Stow Road, Wiggenhall, St Mary Magdalen, Norfolk

- 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 Marcus Mallett for a full award of costs against King's Lynn and West Norfolk Borough Council.
 - The appeal was against an enforcement notice alleging without planning permission, the material change of use of the Land from use for the keeping and exercising of horses to a mixed use of keeping and exercising horses and use for motorcycle riding; without planning permission, the construction on the Land of raised earth mounds, jumps and track.
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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 applicant's grounds for costs principally relate to the fact that an enforcement notice was previously issued by the Council and subsequently quashed on appeal. However, whilst the differences between the notice issued in 2018 and the notice issued subject of this appeal are subtle, they are crucial. Importantly, the previous notice alleged, inter alia, the material change of use of the land to a mixed use of paddock land and use for motorcycle racing and practising and training for these events.
4. In contrast, the alleged breach of planning control in the notice of this appeal is the material change of use of the land from a use for the keeping and exercising of horses to a mixed use of keeping and exercising of horses and use for motorcycle riding.
5. As such, the notice has a wider scope than the previous notice by indicating motorcycle riding without specifying the purposes of it. Moreover, the previous enforcement notice was quashed on the basis that the previous Inspector concluded that the evidence before them demonstrated, on the balance of probabilities, that the material change of use of the land to a mixed use including motorcycle racing and practising and training for these events had not occurred.

6. In contrast, in the appeal before me, there was no dispute from the parties that motorcycle riding had occurred on the land. Indeed, the appellant accepted that motorcycle riding had taken place on the land. As such, my findings were in contrast to the facts facing the previous Inspector. Moreover, since the previous appeal succeeded on ground (b), there was no reason for the Inspector to go on to consider the matter of whether the alleged breach of planning control constituted a breach of planning control as I have done. It is clear from the evidence before me that the facts before the Inspector in the previous appeal were different from those before me here.
7. As a result, I find the Council's behaviour in serving the enforcement notice subject of this appeal was not unreasonable.

Conclusion

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

J Whitfield

INSPECTOR