
Costs Decision

Hearing Held on 28 September 2021

Site visit made on 28 September 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2021

Costs application in relation to Appeal Ref: APP/A0665/C/20/3260779 Land at Smithy Farm, Ryecroft Lane, Bruen Stapleford, Chester CH3 8HH

- 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 Mrs R Chesworth for a partial award of costs against Cheshire West & Chester Council.
 - The hearing was in connection with an appeal against an enforcement notice alleging the erection of a building.
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Decision

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

Reasons

2. The application is for a partial award of costs against Cheshire West & Chester Council. The Planning Practice Guidance (PPG) 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 appellant submits that the Council did not carry out adequate site investigations prior to the issuing of the enforcement notice the subject of this appeal, and that the appellant incurred extra costs in having to address issues that would not have occurred had a site visit been undertaken prior to issuing the second notice. In addition, the appellant considers that matters set out in the Council's statement relating to works on other parts of Smithy Farm were not relevant to the enforcement notice and appeal, and that the appellant had to incur costs in addressing them.
4. PPG¹ advises that for enforcement action, local planning authorities must carry out adequate prior investigation. They are at risk of an award of costs if it is concluded that an appeal could have been avoided by more diligent investigation that would have either avoided the need to serve the notice in the first place or ensured that it was accurate.
5. The appellant does not provide any details of why the Council's absence of a second site visit has resulted in an inaccurate notice. Whilst there was some dispute between the parties at appeal as to whether or not the matters alleged in the notice has occurred as a matter of fact. That was a matter which was

¹ Paragraph:048 Reference ID: 16-048-20140306

considered in the ground (b) appeal. The Council set out clearly in the enforcement notice their reasons for issuing the notice and they supported their case on all the grounds, both in a written statement and verbally at the hearing. It can be seen from my decision that the enforcement notice was upheld, and I am satisfied that given the circumstances of this case, any absence of a site visit prior to the service of the enforcement notice, did not amount to unreasonable behaviour and has not resulted in any wasted expense in the appeal process.

6. The Council's Statement of Case included introductory paragraphs which set out the background to the appeal case and their enforcement investigations leading up to the service of the notice. Supporting background documents and photographs taken at their visit were included in their appeal submissions. Whilst some of the photographs included did not relate to the alleged breach of planning control, given that it was the appellant's case that the unauthorised development was for a residential annexe to Smithy Farm, it was not unreasonable of the Council to provide details of the whole site's planning history and of their site investigations, if they believed that information would support their case. There was no unreasonable behaviour on this issue.
7. In conclusion, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Elizabeth Pleasant

INSPECTOR