The Planning Inspectorate

Costs Decision

Site visit made on 27 July 2021

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 March 2022

Costs application in relation to Appeal Ref: APP/R4408/C/20/3259611
4 Willow Bank, Wilthorpe, Barnsley S75 1BN

- 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 Barnsley Metropolitan Borough Council (the LPA) for a partial award of costs against Mr Nicholas Carlile.
- The appeal was against an enforcement notice alleging, without planning permission, the change of use of land, including residential dwelling (C3) to a sui generis commercial holiday let for the purposes of operating a 24 hours self check in boarding house business.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the 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 Planning Inspectorate informed the appellant and the LPA by letter dated 27 May 2021 that a site inspection would take place at 11:45 on 10 June 2021. The letter informed the parties of the expectation that the Inspector would be accompanied by representatives of both parties. It subsequently stated that a failure to attend by one of the parties may mean the visit would be aborted. The letter requested that if either of the parties were unable to attend, they should contact the Planning Inspectorate immediately.

4. I subsequently attended the appeal site at the appointed date and time. The appellant or any representative failed to attend. I was thus unable to get access to the appeal site and abandoned the visit. No prior notification of the appellant's inability to attend at the appointed time was made to the Planning Inspectorate.

5. A second letter went out to the main parties on 21 June 2021 advising that a rearranged inspection would take place at 12:00 on 21 July 2021. As before, the recipients were advised of the potential for the visit to be abandoned if they failed to attend and to advise if they were unable to attend.

6. I subsequently visited the appeal site for a second time at 12:00 on 27 July 2021. Again, there was no one present from the appellant to allow me

access to the property and no notification that that would be the case. I subsequently abandoned the site inspection for a second time.

7. The Guidance advises that one example of behaviour which may give rise to a procedural award of costs against an appellant is failure to attend or to be represented at a site visit without good reason. In this case, the appellant has failed to attend two site visits without providing any reason or indeed without any advanced notification of such inability to attend. I consider such behaviour to be unreasonable. Moreover, the Council has incurred unnecessary and wasted expense in having a representative attend both site visits.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Nicholas Carlile shall pay to Barnsley Metropolitan Borough Council the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in attending the appointed site visits on 10 June 2021 and 27 July 2021, such costs to be assessed in the Senior Courts Costs Office if not agreed.

10. The applicant is now invited to submit to Barnsley Metropolitan Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J Whitfield

INSPECTOR