



Costs Decision

Hearing Held on 12 October 2021

Site visit made on 12 October 2021

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd May 2022

Costs application in relation to Appeal Ref: APP/A1720/C/19/3226178 137 Newgate Lane, Fareham

- 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 Patrick Cash for either a full or partial award of costs against Fareham Borough Council.
 - The hearing was in connection with an appeal against an enforcement notice alleging without planning permission, unauthorised operational development by the construction of two buildings for residential purposes.
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Decision

1. The application for costs is dismissed.

The submissions for Patrick Cash

2. The costs application was made orally at the Hearing. In summary the appellants case for a full award of costs is that the enforcement notice as issued, was defective as a result of inadequate investigation; and for a partial award if the Inspector finds that the facts leading to the issue of the notice were not obvious but should have become obvious and their decision to issue the notice reviewed, upon receipt of the appellant's detailed statement for this appeal.

The response by Fareham Borough Council

3. In response, the Council maintains its position in regard to the issue of the notice. The Council acknowledge the error in the notice plan but considers that this could be easily corrected without injustice to the appellant.
4. With regard to the ground (b) appeal they submit that the appellant's case lacks detail and the investigation was through with detailed evidence submitted in support of their case.

Reasons

5. Parties in planning appeals and other planning proceedings are normally expected to meet their own expenses. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, 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.

6. Following the Council's oral rebuttal, the appellant's Agent clarified that in the event that I find in favour of the Council in respect of the ground (b) submissions then there would be no case for costs, but it was necessary to protect his clients position in the event that the notice was quashed.
7. Taking the first point, it will be seen from my decision that it was agreed at the Hearing that the amended plan could be substituted without causing injustice. Accordingly, the error on the notice plan has been resolved.
8. With regard to the appellant's second point, I have found that there is insufficient evidence to demonstrate that on the balance of probability the two units are caravans in accordance with the Caravan Sites and Control of Development Act 1960. The appeal on ground (b) therefore fails. Accordingly, I cannot agree that the Council acted unreasonably and their decision to issue the notice has caused any party to incur unnecessary or wasted expenses.

Conclusion

9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated in this instance. Accordingly, I refuse the application for an award of costs against the Council.

Hilary Orr

INSPECTOR