
Costs Decision

Inquiry Held on 30 March 2022

Site visit made on 30 March 2022

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 13 May 2022

Costs application in relation to Appeal Ref: APP/P1615/C/20/3254650 Severn View Farm, Gatcombe, Blakeney GL15 4AU

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by the Forest of Dean District Council for a full award of costs against Mr David Jackson.
 - The inquiry was in connection with an appeal against an enforcement notice alleging the material change of use of the site to that of a builder's yard with associated storage building and facilities.
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Decision

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

The submissions for the Forest of Dean District Council

2. The submissions are made in writing and were handed in to the inquiry.

The response by Mr David Jackson

3. The application can only relate to matters of substance as the appellant has cooperated at all stages of the inquiry process. The appellant has defended his position in relation to allegations in the enforcement notice and has appointed an independent planning consultant. There is no substance to the application, and it is telling that the Council has not appeared at the inquiry, but appointed a consultant. The inquiry is the appellant's opportunity to promote his case. If the Council had liaised over the situation the inquiry may have been avoided.
4. The ground (a) application has already been paid for and the Council's case is subjective and needed to be tested. The Council has not thoroughly investigated matters, but simply relied on the interested party complaints.
5. In relation to ground (d) the appellant accepts he is not the best bookkeeper and undertakes work in the surrounding area in a 'traditional Forest of Dean way'. The cards of officers that visited the site were collected by the appellant and show many discussions. He has had little opportunity to rebut the Council. In relation to ground (d) the inquiry enabled the appellant to plead his case on the balance of probability. He has explained his view of events to the best of his ability. Ground (b) was easily dealt with and the appellant agreed its removal.

6. The appellant considers he was granted planning consent for the store/shed and that the building constructed was in accordance with that consent.
7. The only reason the Council wants the use stopped is based on highway safety. Over the years the character of the area has changed. Many farms are now residences, and some have changed to holiday cottages that have altered the character of the area. The appellant has been mis-directed by many planning officers and building inspectors and was surprised by the enforcement action so is justified in defending it. The Council say he could have appealed the Lawful Development Certificates, but he preferred to wait and see what happened. This is his opportunity to appeal the situation.
8. An award of costs is not justified.

Reasons

9. The Planning Practice Guidance advises that costs may only 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.
10. The ground (b) was withdrawn at the start of the inquiry, avoiding time being wasted at the inquiry. Ground (b) is often confused, with appellants considering that if they agree it amounts to agreeing with the allegation. I appreciate there was some confusion between the declaration and the rebuttal statement, but in itself this matter does not justify costs.
11. The ground (a) appeal is a planning application that the appellant has paid to have considered together with the merits of the alleged development. While I appreciate the case was weak, policies do allow economic development in the countryside providing other impacts are acceptable. I have acknowledged the unacceptable impact on highways, but again this is a matter that required consideration of the evidence. Therefore, while I have refused ground (a) the appellant was entitled to make an application to put his case, and this does not justify an award of costs.
12. The ground (c) case was based on the previous planning decision in 2000 and the appellant considered he was supported by officers of the Council that had visited the site over the years without complaint. I consider this part of the appellant's case the weakest, with what was built being obviously materially different from the 2000 approval. In my view to pursue this was unreasonable and clearly involved the Council in the cost of addressing the matter, before and during the inquiry.
13. The ground (d) is a matter of judgement of the evidence submitted. There were two LDC applications, but these are each made to the Council, so there has been no independent consideration of the matter. He could have appealed these, but chose to argue his case after enforcement action was taken. It was not unreasonable to appeal the ground (d). I accept that the evidence was weak, but I consider that there were elements that needed consideration, particularly as the appellant is clearly involved in building.
14. In relation to the grounds (f) and (g) it is not unreasonable to seek to reduce the impact of the notice.
15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been

demonstrated, but only in relation to ground (c) and that an award of costs is justified in relation to this.

Costs Order

16. 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 D Jackson shall pay to the Forest of Dean District Council the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to ground (c). Such costs to be assessed in the Senior Courts Costs Office if not agreed.
17. The Forest of Dean District Council is now invited to submit to Mr D Jackson, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Graham Dudley

Planning Inspector