
Costs Decision

Hearing held on 7 June 2022

by C Masters MA (Hons) FRTPI

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

Decision date: 6 July 2022

Costs application in relation to Appeal Ref: APP/C1435/W/21/3288629 Hoadleys Stable, Hoadleys Lane, CROWBOROUGH, TN6 1TH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Wealden District Council for a full award of costs against Mr T O'Driscoll.
 - The appeal was against the refusal of planning permission for the development described as material change of use of land for stationing of 3 no. touring caravans for residential occupation with associated development including additional hard standing, retention of fencing, retention of existing timber cabin building for use as shared utility block and installation of package treatment plant (part retrospective).
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Decision

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

Reasons

2. The Planning Practice Guidance makes it clear that costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. A High Court Injunction ('the Injunction') requiring that the appellant clear the land and return it to its former condition was served on the appellant on 28 March 2022. The Council contends that because of this there was no reasonable prospect of the appeal succeeding and that it has therefore incurred unnecessary costs in defending its decision through the appeal process.
4. The appellant says he has applied for an extension of time to comply with the Injunction, but the Council says that it has not received any notice of this. Whatever the case may be, it is clear to me that the appellant had a right to appeal under the provisions of the Town and Country Planning Act 1990. The existence of the Injunction – irrespective of whether or not an extension of time to comply with it has been sought – does not alter that. Even if the Injunction would amount to a legal impediment to implementing the development if planning permission were granted, that does not remove the statutory right to seek permission through appeal or, indeed, the ability for such permission to be given.

5. The three reasons for refusal considered through the appeal proceedings were addressed in a comprehensive manner by the appellant. Evidence was produced in connection with the concerns raised regarding all three main issues. The appellant was appropriately represented at the hearing. For the reasons I have given in my decision, I have come to a view contrary to that of the appellant on these matters. Nevertheless, on this basis the appellant did not act unreasonably.
6. In conclusion, I find that the appellant did not behave unreasonably in pursuing the appeal and the Council's costs in preparing for and appearing at the hearing were not unnecessarily incurred. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified

C Masters

Inspector