The Planning Inspectorate

Costs Decision

Site visit made on 30 November 2022

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2023

Costs application in relation to Appeal Ref: APP/R3705/C/21/3288124
Land at Blabers Hall Farm, Green End Road, Fillongley

- 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 North Warwickshire Borough Council for a full award of costs against Mr Clarke Adams.
- The appeal was against an enforcement notice alleging the undertaking of unauthorised engineering operations including the formation of earth bunds and alterations to the levels of the land by a cut-and-fill operation and the unauthorised screening and export of materials extracted from the land.

Decision

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

Reasons

2. 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. Awards against a party may be either procedural or substantive.

3. In respect of substantive awards against an appellant, the PPG advises that the right of appeal should be exercised in a reasonable manner.

4. The main thrust of the Council's case is that the appellant has sought to try and comply with the notice at the last hurdle, whereas this could have been completed within the previous 12 months.

5. However, the purpose of the appeal is not to determine whether the requirements of the notice have been complied with, rather it is concerned with those grounds set out within section 174(2) of the Act that the appellant chooses to advance their appeal on. Significantly, the appeal has not been withdrawn.

6. Although the appellant has carried out works, seemingly in an attempt to try and comply with parts of the notice, given the consequences of not complying with the requirements of a notice, it is not unreasonable for the appellant to continue to pursue the appeal.

7. Moreover, as will be seen from my decision, I have found the enforcement notice is invalid beyond correction and have quashed the notice. I cannot therefore conclude that the appellant was unreasonable in pursuing the appeal.

Conclusion

8. Thus, for the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Savage

INSPECTOR