
Costs Decisions

Inquiry Held on 28 February 2023

Site visit made on 28 February 2023

by Roy Curnow MA BSc(Hons) CMS MRTPI

An Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Costs application in relation to Appeal Ref: APP/P1133/C/22/3304517 Land at Stoneybrook Stables, Torbryan, Newton Abbot

- 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 Teignbridge District Council for a full award of costs against D R Blight.
 - The inquiry was in connection with an appeal against an enforcement notice alleging use of a caravan for residential purposes.
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Costs application in relation to Appeal Ref: APP/P1133/X/22/3308394 Land at Stoneybrook Stables, Torbryan, Newton Abbot

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Teignbridge District Council for a full award of costs against D R Blight.
 - The inquiry was in connection with an appeal against the refusal of a certificate of lawful use or development for the stationing of an occupied residential mobile home.
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Decision

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

The submissions for Teignbridge District Council

2. The Council made a single application for an award of full costs, relating to both appeals. This was made in writing before the Inquiry sat. The Barrister representing the Council informed the Inquiry that he did not write the costs application; he did not wish to speak to it, nor expand upon it. The claim was based on the following points.
3. The Appellant incorrectly made the appeal on Ground (c) and this was later changed to a Ground (d), after an intervention by the Inspectorate. This casts doubt on whether the Appellant understood the issues. Confusion was caused to the Council.
4. The Appellant, it says, gave very little detail in their case, much of which was the re-submission of the case made in the certificate of lawfulness application that led to one of the appeals. There was a lack of substantive content in the submissions, much of which was ambiguous and displayed a lack of understanding; this all led to the Council having to prepare more detailed documentation than necessary. Although the Council agree that there is a shared 'burden' in the preparation of a Statement of Common Ground, (SoCG),

the Appellant, unfairly, did not shoulder his share of the burden. The Appellant deliberately misled the Council in the responses to the Planning Contravention Notice, (PCN), in 2014, to avoid enforcement action. The Council felt there was no justification to continue with the appeals and wrote to the Appellant to request their withdrawal. This was not agreed to. The Council further refers to factually incorrect statements in the Proofs of Evidence (PoE) of Mr Paul Bright and Mrs Tessa Bright. It also states that the Appellant's agent submitting a PoE showed a lack of understanding of the issues and procedure.

5. Overall, the Council says that this was unreasonable behaviour and the result was wasted expense.

The response by D R Blight

6. The Appellant made a written response that, again, was not expanded on at the Inquiry. This says that the majority of the points raised are minor administrative matters that are a normal part of the run-up to an Inquiry. The cases that were made to the Inquiry were based on detailed supporting submissions. The appeal was necessary as the Council improperly applied the balance of probability test by attaching no weight to the sworn statements of 6 people; that it had no evidence of its own; and the Notice was defective. He was not making a costs application, however.

Reasons

7. The Planning Practice 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.
8. There was some degree of confusion and inconsistency in relation to the name of the Appellant, which might be considered to be unreasonable behaviour. However, as the Council's case would have been the same irrespective of the name on the appeal form, I do not find that this led to wasted or unnecessary expense.
9. I find that the case put forward by the Appellant did not lack detail and was substantive. Whilst much of the case mirrored that put to the Council in the application for a certificate, this cannot be considered to be unreasonable. The Appellant was challenging the Council's decision and the re-submission of that information to have it independently tested at appeal would be expected. Whilst there were undoubtedly errors, including calling the Appellant's agent's Opening Statement a PoE, these were not, to my mind, unreasonable acts – merely minor administrative failings. Although Mr and Mrs Blight said they bought the land, it has not been demonstrated how this led to unnecessary expense. The work to create a SoCG is, by definition, work to be shared and I do not find that the Appellant's actions in this regard were fundamentally unreasonable.
10. The allegation that the Appellant deliberately misled the Council when completing the PCN was not part of the Council's case at the Inquiry. Indeed, the opposite line was taken, and it was put to Mr Blight in cross-examination that he had told the truth in the earlier appeal and was not doing so in the Inquiry. Thus, as the Council's position changed, to the point where it argued that the terms of the PCN were correct, I cannot find the Appellant's completion of the PCN to have been unreasonable behaviour.

11. There was no overriding requirement for the Appellant to withdraw from the appeal. The Council's letter, dated 24 January 2023, inviting the withdrawal of the appeal was, in large part, based on the alleged lies in the PCN and the evidence given in the 2015 appeal. As the Council's position on these changed, and it asserted that the statements were true in the Inquiry, it cannot claim that their inclusion in the Appellant's case was unreasonable.
12. That I found against the Appellant in my decision, this does not automatically mean that the issues raised by the Council in this claim equate to unreasonable behaviour. I find that the Appellant did not act unreasonably.
13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Roy Curnow

Inspector