



Costs Decision

Inquiry Held on 7 January 2020

Site visit made on 8 January 2020

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

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Costs application in relation to Appeals Ref:

APP/D1265/C/20/3263127/28, APP/D1265/20/3263777/8

Misty Meadows, 147 Ringwood Road, Ferndown BH22 9AB

- 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 Dorset Council for a partial award of costs against the appellants.
 - The inquiry was in connection with appeals against the issuing of enforcement notices for a residential building and use of land for residential purposes,
-

Decision

1. The costs application is refused.

The submissions

2. The submissions for the Council and appellant were made in writing.

Reasons

3. 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.
4. The proof of evidence at an inquiry should set out the parties' cases in full. This enables each other's cases to be understood and responded to in an efficient manner. The only proof for the appellants was prepared by Mr Sebbinger, with statutory declarations attached as appendices. There is no objection to these being treated as proofs.
5. The Council say that at the inquiry the appellants did not follow their statutory declarations, but expanded on and introduced new evidence during Evidence in Chief that caused additional examination. The Council identify as a significant change the statement that the appellant lived in a caravan on the site, before moving into Misty Meadows. There was also information about the shed construction, gardening and use of adjacent land in connection with horses.
6. During the Examination in Chief the evidence of the appellants was expanded upon, which is not unusual or necessarily unacceptable. While the use of the caravan was expanded upon with the appellant, the occupation was not a 'surprise' as it was in Mr Woolrych's statement. Obviously looking into that in detail with the appellant, with it not being in his statement, would have been

unexpected, but the caravan was not a complete surprise. My view is that if the appellant was going to provide evidence about the caravan it should have been in his proof/declaration. If the caravan use was to be expanded upon it should have been with the witness in whose statement it was provided as evidence. The works to the shed were set out in the declaration and also referred to by Mr Sebbinger. I do not consider the expansion/explanations that occurred were unreasonable. Mrs Phillips also identified gardening and again expansion of this in Evidence is Chief was not unreasonable. The use of fields around Misty Meadows was also identified in Angela Pritchard's statement.

7. Overall, while I accept there was expansion of cases, and a cross over with the information put by other witnesses, I do not consider that it amounts to unreasonable behaviour that should lead to the award of costs, although I understand the difficulties for the Council.
8. The inquiry was set down for two days, but the fact that it went over this estimate does not in itself necessarily indicate it was the fault of the appellants. There were a lot of issues, witnesses and some of the different appeals were not directly related. I feel that the main fault was that the time required was not estimated correctly in the first place.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Graham Dudley

Planning Inspector