



Costs Decision

Site visit made on 3 May 2023

by James Blackwell LLB (Hons) PGDip

an Inspector appointed by the Secretary of State

Decision date: 19th July 2023

Costs application in relation to Appeal A Ref: APP/J1860/C/22/3311713 and Appeal B Ref: APP/J1860/C/22/3311714

Workshop at (OS 7845 3772), Castlemorton

- 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 Mr & Mrs J Heywood for a full award of costs against Malvern Hills District Council.
 - The appeal was against an enforcement notice alleging the unauthorised erection of a building.
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Costs application in relation to Appeal C Ref: APP/J1860/C/22/3310907 Workshop @ OS 378450, 237721, Walnut Tree Cottage, Walnut Tree Lane, Gloucester Road, Castle Morton, Worcestershire WR13 6BS

- 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 Mr & Mrs J Heywood for a full award of costs against Malvern Hills District Council.
 - The appeal was against the refusal of planning permission for amended design of building previously constructed following approval of planning permission 07/01038/FUL.
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Decisions

1. The application for an award of costs in respect of Appeals A and B is refused.
2. The application for an award of costs in respect of Appeal C is refused.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, 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. In this instance, the applicants allege that it was unreasonable for the Council to serve an enforcement notice, on the basis that if granted, the submitted planning application (pursuant to Appeal C) would remedy the breach of planning control.
4. Irrespective of the outcome of the planning application submitted pursuant to Appeal C, there are no guarantees that the applicants would implement any planning permission granted pursuant to this application. Service of the enforcement notice was therefore entirely reasonable and appropriate, as it ensures the Council has an appropriate mechanism to enforce against the alleged breaches of planning control, in the event that planning permission

sought under Appeal C were not granted, or else were not implemented even if granted. In turn, the Council's behaviour in respect of Appeals A and B was entirely reasonable.

5. Little evidence has been submitted by the applicants to support their application for costs in respect of Appeal C. Nonetheless, it is important to distinguish the application submitted pursuant to Appeal C, as this sought alterations to the appeal building, in an attempt to overcome the harm identified by the Council in respect of the building originally constructed. Conversely, the enforcement notices issued in respect of Appeals A and B sought to remedy the injury to amenity, in terms of the building as constructed. Whilst they deal with the same subject property, Appeal C is separate from Appeals A and B, and must therefore be dealt with on its own individual merits. In this regard, I find that the Council's handling of Appeal C was also reasonable.
6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

James Blackwell

INSPECTOR