



Costs Decision

Site visit made on 6 September 2023

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2023

Costs application in relation to Appeal Ref: APP/J0405/C/23/3315386 Land at Plot 2, Aga Farm, Main Road, Buckland, Buckinghamshire HP22 5JA

- 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 Buckinghamshire Council for a partial award of costs against Mr Nigel Paul Smith.
 - The appeal was against an enforcement notice alleging the material change of use of the Land to residential, agricultural and leisure use, including the construction of a mooring/landing stage, and storage of items not required for the lawful use of the Land.
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Decision

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

Reasons

2. 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.
3. The Council contend that the appellant has been unreasonable in not disclosing the existence of a permit from the Canal and Rivers Trust (the CRT) until Final Comments stage, in that this information may have influenced their consideration of this case as well as the requirements of the notice.
4. While it is noted that this permit was highlighted at a late stage of the process, I find that it is not incumbent on the appellant to provide information to the Council to substantiate or support its case. I note that the Council made its own contact with the CRT and that no response was received prior to the Council providing its Statement of Case. However, it was the Council's decision to issue the notice without having had confirmation from the CRT as to its consideration of the works. Moreover, such a permit is issued under separate legislation and as such is a matter separate from the planning consideration of the development that was undertaken.
5. In respect of the Council stating that the existence of the permit may have influenced the requirements of the notice, if this is the case then it is for the Council to have satisfied itself that it had the appropriate information prior to the issue of the notice; not to rely on the appellant to provide this.
6. Regarding the evidence of the appellant, the Council contend that there has been unreasonable behaviour stemming from the lack of information submitted that would allow the Council to comment or challenge. However, the Council must satisfy itself that it is appropriate to serve any notice. I accept that the

appellant has not provided substantial evidence to counter the allegations of the Council, nonetheless this does not in my view rise to the level of unreasonable behaviour on the part of the appellant.

7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Martin Allen

INSPECTOR