



Costs Decision

Site visit made on 5 February 2024

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 18th March 2024

Costs application in relation to Appeal Ref: APP/M0655/C/23/3319286 Pear Tree Farm Barn, Well Lane, Lower Stretton, Warrington WA4 4PA

- The applications are made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - An application is made by Jack W Thwaites for a full award of costs against Warrington Borough Council.
 - The appeal was against an enforcement notice alleging a material change of use to garden land.
-

Decision

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

Planning Practice Guidance (PPG)

2. Parties in planning appeals normally meet their own expenses. However, the 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.

The applicant's claim

3. The basis of the applicant's claim is that he previously obtained barristers/counsels' advice and has incurred substantial costs. He also states that the Council has been unreasonable in not meeting on site or having discussions before serving the enforcement notice.
4. He has submitted two further planning applications, one of which is to move the yard and install a new access and another to re-site the garden on the front of the property. He states that the Parish Council does not agree with the Council's decision to take enforcement action.

The Council's response

5. It is a matter for the applicant to decide whether or not to obtain legal advice and incur professional fees. No comments have been received from the Parish Council and their view is not in any event determinative. The fact that there are other related planning applications before the Council is not relevant to the issue of costs.
6. The Council has not acted unreasonably and the previous Inspector attributed limited weight to the matter of farm safety and that position has not changed.

Reasons

7. Whether or not the Council needed to have further discussions or a site meeting was required before issuing the notice is a matter for the Council. Given the parties' respective views, it is highly unlikely that a site meeting or further discussions would have avoided service of the notice. However, choosing not to have a site meeting or further discussions prior to the service of a notice is not unreasonable behaviour.
8. I note that the applicant has submitted further planning applications for the appeal site to try and resolve the garden issue. If the applicant has concerns about how long those separate applications are taking to determine, that is a matter to raise directly with the Council. However, the Council's decision to serve an enforcement notice after the refusal of the previous appeal was not unreasonable.
9. The Parish Council has not commented as part of the appeal procedure. Whilst the Parish Council is entitled to hold a different view to the Council, that does not mean that the Council's behaviour is unreasonable.

Conclusion

10. Unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated.

E Griffin

INSPECTOR