



Costs Decision

Site visit made on 8 March 2024

by Mr James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 17th April 2024

**Costs application in relation to Appeal Ref: APP/K0425/C/23/3325221
Land at Saddleback Barn, Lower Icknield Way, Longwick, Buckinghamshire
HP27 9RL**

- 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 John Collinswood for a full award of costs against Buckinghamshire Council.
 - The appeal was against an enforcement notice alleging an unauthorised material change of use to a mixed use comprising residential use, agriculture and a memorial garden, and integral to that use, the construction of a wooden gate structure and gravel pathways.
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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 applicant says that the Council's behaviour has been unreasonable on substantive grounds. In particular, the applicant says that the Council failed to properly investigate the alleged breach of planning control, failed to substantiate any harm arising from the alleged breach, and included requirements in the enforcement notice (EN) which were not reasonable or necessary. The applicant also says it was unreasonable for the Council to withhold the officer report associated with the EN.
4. The fact of the Council withholding the officer report from the applicant would not have avoided the need for an appeal, as the EN had already been issued at this point. Consequently, this alleged unreasonable behaviour did not result in unnecessary or wasted expense, as the appeal would have been needed in any event.
5. The development constitutes a material change of use of the appeal site, to a mixed use comprising residential use, agriculture and a memorial garden. Given that this MCU did not have planning permission, there was a breach of planning control. Irrespective of harm, the Council was therefore entitled to issue the EN. The Council set out its reasons for issuing the EN at paragraph 4 of the EN, highlighting that the alleged development conflicted with numerous policies in the development plan. The reasons for issuing the EN were therefore clear.

6. Whilst I have concluded that the benefits of the scheme are material considerations which outweigh the harm arising from the conflict with the development plan, this is a matter of planning judgment. It was not unreasonable for the Council to reach a different conclusion, given the policy conflicts identified.
7. In accordance with s173(4)(a) of the Act, the Council was also explicit that the purpose of the EN was to remedy the breach of planning control. The requirements of the EN correspond directly with the matters alleged, and therefore go no further than achieving this purpose.
8. In terms of the wooden gate, whilst I have found that the gate is permitted development, it was not unreasonable for the Council to conclude otherwise. Indeed, the gate forms part of the enclosure to the garden, thereby contributing to its sense of seclusion. In turn, it could be perceived as part of the alleged MCU. Similarly, whilst I found that the physical features of the gravelled areas are consistent with them being drainage channels, it would not be unreasonable to conclude they were pathways, particularly as they follow the likely route of visitors walking around the garden.
9. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

James Blackwell

INSPECTOR