

Costs Decision

Site visit made on 14 March 2024

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State

Decision date: 18th April 2024

Appeal Ref: APP/J2210/X/23/3325471

Beggars Roost, Woolage Green Road, Woolage Green, CANTERBURY, Kent, CT4 6SF

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Jacqueline Leatherbarrow for a full award of costs against Canterbury City Council.
 - The appeal was against the refusal of a certificate of lawful use or development for use of land as a caravan site.
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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 basis of the LDC application was that the site benefitted from an extant planning permission for use as a caravan site, but up until shortly before the application was due to be determined the appellant was unable to provide a copy of the permission, or sufficient evidence to show that it benefitted from a deemed planning permission under the Caravan Acts. Up until then the Council's position was that the use, which had occurred from 1954 up until about 1988 or 1990, had been abandoned, and it stood by that position even when provided with a copy of a planning permission for the site granted by Kent County Council in 1974. However, it is well established that the concept of abandonment is not applicable to development that benefits from planning permission. Acting contrary to, or not following, well-established case law is one of the examples of unreasonable behaviour given by the PPG.
4. However, it is evident from the Council's submissions that it considered that intervening uses had superseded the caravan site use, such that the LDC application would almost certainly have been refused in any case. It follows that the appeal was not entirely due to the Council's incorrect application of case law. Overall I am not persuaded that the appeal was unnecessary, so that the second condition necessary for an award of costs, namely that the unreasonable conduct led to unnecessary or wasted expense, is not met.

Paul Dignan

INSPECTOR