



Costs Decision

Site visit made on 20 February 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 May 2024

**Costs application in relation to Appeal Ref: APP/K0425/C/22/3312087
Land at Swish Fibre Depot, Hooks Farm, Hooks Lane, Marlow Common,
Buckinghamshire SL7 2DS**

- 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 Christopher Folley, Harleyford Estate Ltd.
 - The appeal was against an enforcement notice alleging without planning permission, a material change of use of the Land to a mixed use comprising of agricultural use and B8 storage depot and integral to that use the stationing of portacabins.
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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 contends that the appellant has behaved unreasonably in that at the time of the appeal, no evidence was put forward to support that the alleged breach of planning control was immune from enforcement action. The appellant instead opted to apply to the Council for a lawful development certificate (LDC), to seek to demonstrate immunity for the existing building and an area of land immediately to its south elevation.
4. The appellant refers to it taking some time to collate the evidence necessary to submit the LDC and to arrange it into a logical chronological order. Furthermore, it is stated the area for which the LDC was sought did not cover the entirety of the area that the enforcement notice covered.
5. For the reasons given by the appellant, it would appear to be a reasonable course of action to seek an LDC separate to the appeal against the enforcement notice. In considering this, I am particularly mindful that the period between the issue of the notice and the need to submit an appeal against it, may not have allowed for a full collation of the necessary evidence by the appellant. As such, I find nothing unreasonable in the approach taken by the appellant in this case.
6. While the Council contends that it has been required to undertake additional work at short notice, consideration of the evidence would nonetheless have been necessary whether it was submitted as part of the appeal against the

enforcement notice, or as part of the separate LDC. As such, there has been no unnecessary expense in this regard.

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

Martin Allen

INSPECTOR