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## Costs Decision

Site visit made on 15 February 2024

**by David Jones BSc (Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 May 2024**

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### **Costs application in relation to Appeal Ref: APP/K0425/C/22/3305844 The White House, Fieldhouse Lane, Marlow, Buckinghamshire SL7 1LU**

- 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 Folbro Y Ltd for a full award of costs against Buckinghamshire Council.
  - The appeal was against an enforcement notice alleging the material change of use of the land to a mixed use comprising of residential and the parking and storage of motor vehicles, and integral to the unauthorised use, operational development comprising the construction of hardstanding and the erection of a gate and fencing.
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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<sup>1</sup> 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. Unreasonable behaviour can be either substantive<sup>2</sup> – relating to issues arising from the merits of the appeal, or procedural<sup>3</sup> – relating to the process.
3. The applicant's claim is on procedural grounds. This is based on the consideration that it was not expedient for the Council to issue the enforcement notice as a retrospective planning application had been submitted in relation to the development. The applicant also references the Council's Planning Enforcement and Monitoring Plan 2021, which at paragraphs 7.1.4 and 7.1.5 states that parties should seek to negotiate a solution to planning breaches, and where appropriate a retrospective planning application may be invited in an attempt to regularise the breach of planning control.
4. Whilst it is apparent that there was correspondence between the parties in relation to the development from around September 2021, it is unclear whether the Council actually invited the submission of a retrospective planning application.
5. Nevertheless, the Council is not required in guidance or legislation to hold-off from issuing an enforcement notice where a breach of planning control has been identified, just because a retrospective planning application has been submitted. In this case, the Council was satisfied that it was expedient to take enforcement action having regard to the provisions of the development plan

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<sup>1</sup> PPG Paragraph: 030 Reference ID: 16-030-20140306

<sup>2</sup> PPG Paragraph: 049 Reference ID: 16-049-20140306

<sup>3</sup> PPG Paragraph: 047 Reference ID: 16-047-20140306

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and other material considerations, as clearly set out in the enforcement notice report as well as the notice itself.

6. I am satisfied that the Council has exercised its enforcement powers in accordance with the law, national and local planning policy, and through national guidance, in taking action against an unauthorised development in the Green Belt.

### **Conclusion**

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*David Jones*

INSPECTOR