



Costs Decision

Site visit made on 25 June 2024

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2024

Costs application in relation to Appeal A Ref: APP/L2250/C/23/3321005 and Appeal B Ref: APP/L2250/C/23/3321006

Hoad's Meadow Alpaca Retreat, Hoad's Lane , Swingfield, Kent CT15 7HS

- The application is made under the Town and Country Planning Act 1990 (the Act), sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Folkestone and Hythe District Council for a full award of costs against Mr Daniel Bond (appeal A) and Mrs Stacey Bond (appeal B).
 - The appeal was against an enforcement notice alleging unauthorised change of use of land from agriculture to a mixed use for residential use, holiday/tourism use, (including the keeping of alpacas and other animals) and the installation and siting of various structures, equipment and paraphernalia associated with those uses, including containers, solar panels, a prison van for use as a chicken house, alpaca shelter, hot tub, diesel tank and play equipment; the erection of timber fencing and gates; and the laying of hardstanding.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. The application seeks an award of costs for procedural and substantive reasons.
3. The Council suggest that appellants are at risk of an award of costs if the appeal or grounds of appeal had no reasonable prospect of succeeding.
4. The appellants' case largely relates to the reasons why planning permission should be granted. In the absence of an appeal under ground (a) it is not possible to consider those matters on an appeal under ground (f) where the purpose of the requirements, as set out at Section 173(4) of the Act, are to remedy the breach of planning control by restoring the land to its condition before the breach took place.
5. The Council pointed those issues out and gave the appellant the opportunity to withdraw the appeal prior to writing their Statement, suggesting that they would submit this application for costs if the appeal was not withdrawn. Given that warning, I consider that the appellants' behaved unreasonably in not withdrawing the appeal at that stage, which would have avoided the application for costs.

6. It is not unreasonable to make a ground (f) appeal that the steps required to comply with the requirements of the notice are excessive, and lesser steps may have overcome the objections. However, it is not clear from the evidence submitted why the requirements were considered excessive, only the reasons why the appellant considered planning permission should be granted. It would also have been clearer to the appellant and may have made it less likely that they would have appealed if the enforcement notice had set out the purpose of the requirements set out at Section 173(4) of the Act, in this case to remedy the breach of planning control rather than to remedy any injury to amenity which has been caused by any such breach.
7. As a result, I conclude that there was unreasonable behaviour that caused the Council to incur unnecessary or wasted expense in the appeal process for procedural and substantive reasons. However, that unnecessary or wasted expense was limited to after the Council's email of 12 June 2023 referred to above.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Daniel Bond and Mrs Stacey Bond shall pay to Folkestone and Hythe District Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred since 12 June 2023; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Mr Daniel Bond and Mrs Stacey Bond, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

AJ Steen

INSPECTOR