



Costs Decision

Site visit made on 2 July 2024

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2024

Costs application in relation to Appeal Ref: APP/D0515/C/23/3317077 6 Bridge Lane, Wimblington, March, Cambridgeshire PE15 0RS

- 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 Mr Neil Bowers for a partial award of costs against Fenland District Council.
- The appeal was against an enforcement notice ("the Notice") alleging the erection of a building used to store vehicles and the laying of a hard surface within the curtilage of a dwelling without planning permission, along with the material change of use of land from agricultural land and domestic garden land to a mixed use of domestic garden land and land used for the storage and dismantling of vehicles.

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 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's case is twofold. Firstly, that at the time the Notice was issued he had submitted a planning application for the building and the hardstanding; and that had the Council determined that application, and approved the development, he would not have had to incur the costs associated with pursuing that element of his appeal. Secondly, that there was room for discussion with the appellant to achieve a mutually acceptable scheme, for a smaller building and a reduced area of hardstanding, and that the most efficient way to achieve a mutually acceptable scheme would have been through a planning application, rather than an enforcement appeal. He therefore considers the appeal could have been avoided, and seeks to recover his costs relating to the appeal process insofar as it relates to the retention of the building and hardstanding.
4. The applicant has provided copies of correspondence between the parties, but I have not seen the application made to the Council or any correspondence relating to it prior to the issue of the Notice. With the information before me it appears the application was made several months after first contact with the Council, a planning contravention notice and a site meeting with the Council, and 1 month before the Notice was issued. The application was considered invalid by the Council, on grounds related to it not encompassing the entirety of the development carried out. Whether or not that was correct, it is clear the Council would not have delayed or withheld its enforcement action unless an application addressed the development which had been carried out and

remedied those aspects not to be retained. From the correspondence before me that that was unlikely to be the case, and the Council was not unreasonable in its approach.

5. It is clear that some discussion did occur between the parties prior to the appeal being lodged with a view to exploring whether a similar development could be permitted. I note the parties were unable to come to agreement over the extent and nature of any potential development, and that the Council indicated it would therefore have declined to determine an application under Section 70C of the Act. In my appeal decision I considered the steps the applicant was willing to take to retain the development in a reduced form, but found they would not overcome the harm arising from the development. It therefore follows that I find the Council was not unreasonable in advising its officer would not support a planning application on similar terms. Consequently, there was no mutually acceptable scheme offered or application made by the appellant which would have avoided the need for the enforcement appeal, as it related to the building and the hardstanding.
6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Peter White

INSPECTOR