



Costs Decision

Inquiry held on 29 and 30 August 2024

Site visit made on 29 August 2024

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2024

**Costs application in relation to Appeal Ref: APP/M2372/C/24/3343383
Land at Former Hob Lane Farm (previously 475 Blackburn Road, Edgworth,
Turton BL7 0PU)**

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Kenneth Warner for a full award of costs against Blackburn with Darwen Borough Council.
- The inquiry was in connection with an appeal against an enforcement notice alleging the material change of use of the land to that of a residential use, by virtue of the siting of a caravan used for residential purposes.

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 applicant submitted the costs application in writing before the Inquiry, with the Council providing its response in writing before the Inquiry opened.
4. The applicant's case may be summarised as follows:
 - a) The Council failed to respond to the applicant's proposals submitted in September 2023 which, in his view, would have avoided the need for this appeal.
 - b) The Council could have brought the enforcement action earlier when it could have been joined with the earlier Lawful Development Certificate (LDC) appeal¹, thus saving time and money.
 - c) There was no mention of any impending enforcement action during the LDC appeal.
 - d) The Council failed to provide their hearing statement in accordance with the appeal start date letter.
5. In September 2023 the applicant sent an email to the Council's Enforcement Officer in which it was proposed that, should the Council accept through the submission of a LDC application *"that my side garden is garden and curtilage up to the point where the tarmac chippings are laid out for the caravan site"*,

¹ APP/M2372/X/23/3320474

then the applicant would cease the use of the caravan as a separate dwelling. The applicant argues that this would have achieved the Council's intended outcome, namely stopping the use of the caravan as a standalone residential unit.

6. Both matters which formed part of the proposal, specifically the extent of the residential curtilage and the use of the caravan, must be assessed on the available facts so that an accurate planning judgement can be made. In particular, the use of the caravan and any potential lawfulness was a source of dispute between the parties. It is also unclear how a restriction on the use of the caravan would be enforced in the absence of either a conditional planning permission or an effective enforcement notice. The Council's unwillingness to accept the proposal does not amount to unreasonable behaviour in my view.
7. Despite the applicant's view that the use of the caravan as a stand-alone residential unit was lawful, the option to apply for a LDC was not taken up. Consequently, the Council proceeded to seek authorisation to take enforcement action in respect of the caravan. This was a perfectly reasonable and logical step for the Council to take considering that the use was, in their view, a breach of planning control and an inappropriate form of development.
8. The applicant considers that upon receipt of the necessary authorisation, the Council could have issued the enforcement notice sooner so that the appeal could have been joined with or ran alongside the LDC appeal. However, the Council is not obliged to issue the notice immediately after receiving authorisation. Instead, the Council chose to await the decision on the LDC appeal to assess whether that would have any ramifications with regards to the proposed enforcement action, and to allow further investigations to take place. This may also explain why the potential enforcement action was not brought to the appellant's attention during the LDC appeal. I find nothing that indicates that the Council has behaved unreasonably in this respect.
9. Even if the notice had been issued earlier, given that it related to an entirely different development, it is by no means certain that the enforcement and LDC appeals would have been dealt with together. In addition, there is no reason to suspect that either an appeal or an Inquiry in relation to the enforcement notice would have been avoided given the grounds of appeal and main issues.
10. Finally, the applicant contends that the Council's hearing statement was not submitted in accordance with the start date letter. The Council's Inquiry statement was submitted within the specified timeframe. It is instead considered that the applicant is in fact referring to the appeal questionnaire which the Council is required to complete and provide to both the Planning Inspectorate and the appellant.
11. The Council has acknowledged and apologised for initially failing to provide a copy of the questionnaire to the appellant as required. This matter was rectified around two weeks later after the appellant requested a copy. Whilst the delay in the Council providing the questionnaire is unfortunate and regrettable, there is no evidence to suggest that this resulted in any unnecessary or wasted expense being incurred by the applicant.

Conclusion

12. Therefore, for the reasons set out above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

David Jones

INSPECTOR