Costs Decision

Site visit made on 24 July 2024

by Mrs H M Higenbottam BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2025

Costs application in relation to:
Appeal A Ref: APP/A2280/C/24/3336196
Appeal B Ref: APP/A2280/C/24/3336197
At The Furrows Factory Farm Wouldham Road, ROCHESTER, ME1 3TL

- The application is made under the Town and Country Planning Act 1990 sections 78, 320 and Schedule 6, and the Local Government Act 1972, Section 250(5).
- The application is made by Medway Council for a full award of costs against Mr John Treeby and Ms Jill Good.

Decisions

1. The applications for an award of costs are refused.

The submissions for Medway Council

2. The costs application was submitted in writing.

3. The applicant considers that the appellants have provided information that was inaccurate such as:
i. *"There was already an existing hardstanding"* – The Councils and other aerial photography demonstrate this cannot be true.
ii. *"The Land has not and will not ever be used as a waste deposit site"* - The Council's and other aerial photography demonstrate the Land has been used as a waste deposit site.
iii. On the one hand the Appellants argue the appeal site form part of the residential curtilage of The Furrows, whilst on the other that they require a large shed for agricultural equipment.

4. The applicant considers that the appellants had no reasonable prospect of succeeding as they failed to provide any evidence to substantiate their case or contradict the applicant's case. It is also stated that the appellants failed to cooperate. This is stated to have caused the applicant to incur unnecessary and wasted expense and a full award of costs is sought.

The response by Mr John Treeby and Ms Jill Good

5. The response was made in writing. The appellants state that they have responded to the applicant in a timely manner and have never failed to cooperate. The delay in response to the PCN was due to it being addressed incorrectly. Ms Good was not resident at the property and although named on the deeds does not have an interest in the property. The appellants were not seeking to mislead the Council.

6. The appellants state that they have demonstrated that there was a hardstanding previously. They refute it has ever been used as a waste deposit site. Although it is accepted that new crushed concrete was placed on the old hardstanding, but do not accept that this amounts to a waste deposit site.

7. The appellants consider the residential status of the land is correct and it is in the residential curtilage. The residential shed is used for a ride on lawn mower and garden equipment.

8. The appellants provided evidence to support the appeal. Mr Treeby has deteriorating health and the applicant is aware of this. Mr Treeby's personal circumstances should be taken into account and the costs application should be refused.

Reasons

9. 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.

10. Although not stated explicitly by the applicant I believe that it considers that the unnecessary or wasted expense is the expense of the applicant defending the appeal because in its view the entire appeal could have been avoided.

11. The appellants have acted reasonably during the appeal process, meeting deadlines, information and documents have been provided in a timely manner and representatives have been in attendance at the time arranged for the site visit. I therefore find in relation to the appeal process that the appellants have acted reasonably.

12. The appellants have explained the delay in the PCN response. Furthermore, the appellants have produced evidence in relation to all the grounds of appeal. They have explained the personal circumstances around the development which has taken place. Moreover, it has clearly been a difficult time for one of the appellants dealing with these issues. Whilst I have found the applicants evidence more persuasive than that of the appellants, I consider it was not unreasonable for the appellants to pursue the appeal on the grounds that they did. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

13. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Hilda Higenbottam

INSPECTOR