



Costs Decision

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2025

Costs application in relation to Appeals Refs: APP/Y3940/C/24/3348270 and APP/Y3940/C/24/3348271

Kingsdown Farm, Longbridge Deverill, Warminster, BA12 7DY

- 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 Mr Julian Phillips and Mrs Kate Phillips for a full award of costs against Wiltshire Council.
 - The appeals were against an enforcement notice alleging a failure to comply with a condition imposed on a planning permission ref PL/2022/01141 granted on 26 October 2022.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. Examples of unreasonable behaviour by Local Planning Authorities are set out in paragraph 049 of the PPG.
4. The applicants are seeking a substantive award of costs on the grounds that the Council acted unreasonably by serving a notice, even though it was advised by the applicants that the condition was unenforceable. The applicants say that they incurred unnecessary expense by having to obtain professional advice on the matter. The Council says that it has clearly set out why the unlawful development that the enforcement notice relates to has occurred as a matter of fact, and that it has addressed in full the applicants' claim to the contrary.
5. Although the applicants do not agree with the Council's decision to serve a notice, that does not mean that the Council have acted unreasonably in doing so. The Council's statement of case explains what factors were considered in reaching the decision to take enforcement action and gives reasons why the condition was considered enforceable. The Council was entitled to reach its own conclusion as it was a matter of judgement. While I have reached a different conclusion to the Council on this matter, this does not mean that the Council's actions amount to unreasonable behaviour.
6. The applicants say that the Council's statement is not based on legal advice. However, the Council is under no obligation to seek legal advice merely because the appellants have obtained their own advice, and it was not unreasonable to rely on the professional judgement of its own officers.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
8. The application for an award of costs is refused.

M Offerenshaw

INSPECTOR