
Costs Decision

Site visit made on 28 November 2022

by Debbie Moore BSc (HONS), MCD, PGDip, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Costs application in relation to Appeal Ref: APP/C3430/C/22/3295538 Land at the rear of 8 Baggeridge Close, Gospel End, Staffordshire DY3 4AJ

- The application is made under the Town and Country Planning Act 1990 (the 1990 Act), sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by South Staffordshire District Council for a partial award of costs against Mr D Bytheway.
 - The appeal was against an enforcement notice alleging the making of a material change of use of the Land and associated unauthorised development and engineering works to facilitate that change of use including, but not limited to the installation of a garden pond, the laying of a hardstanding base and siting of a shipping container, the erection of fencing and the raising of the land levels to level off the Land to facilitate that change of use for use as domestic residential garden land.
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Decision

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

Reasons

2. 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 has applied for a partial award of costs on the basis that the appellant acted unreasonably through the submission of late evidence. The Council says that the Appellant's 'Final Comments' included additional evidence consisting of photographs and five statutory declarations together with unsigned statements. It is argued that this should have been submitted as part of a statement of case rather than being raised in final comments.
4. It is correct that the Inspectorate's 'start letter' makes it clear that no new evidence should be submitted as part of final comments. It is within the Inspector's discretion to accept late evidence but the appellant ran the risk of the information being disregarded. The evidence was accepted as I considered it would be relevant to the matters at issue, and the Council was allowed time to respond. The submission of evidence outside of the timescales would normally be considered unreasonable, especially if it raised new issues.
5. In this case, the further evidence was contained within a relatively long document but much of it reiterated points already made. There were statutory declarations and third party letters included within the comments, however. These necessitated a response from the Council and, despite the personal circumstances of the appellant, there is no valid reason why these could not have been supplied at the appropriate time in the appeal process.

6. The PPG makes it clear that unreasonable behaviour must cause the party applying for costs to incur wasted expense. The Council says it has incurred wasted expense in having to respond to the further evidence at a late stage when it could have dealt with that evidence by way of final comments. However, the appellant did not provide an appeal statement but relied upon the initial grounds of appeal. Had the final comments been provided at the statement stage, the Council would have responded then. The officer time would still have been required albeit at the earlier stage. On this basis, unnecessary or wasted expense has not been incurred.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Debbie Moore

Inspector