
Costs Decision

Site visit made on 12 February 2018

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 April 2018

Costs application in relation to Appeal Ref: APP/B9506/C/17/3180795 Meadow View, Stuckton, Fordingbridge, SP6 2HG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by the New Forest National Park Authority (NPA) for a full award of costs against Mr Paul Mawson.
 - The application is in connection with an appeal against an enforcement notice alleging the stationing of a mobile home as an independent unit of residential accommodation and the erection of decking around the mobile home (MH).
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Decision

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

Reasons

2. The PPG¹ advises that irrespective of the outcome of an appeal, costs may only 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. Awards against appellants may be made in respect of procedural matters, with regard to behaviour in relation to completing the appeal process, or substantive matters which relate to the merits of the appeal. The NPA's application relates to the appeal process (procedural matters).
4. For the appellant it is argued that unreasonable behaviour cannot be demonstrated. The NPA's case is that the appellant was well aware of the need for the MH to be used for ancillary purposes so as not to require planning permission, due to previous correspondence from the NPA, and an earlier appeal decision relating to another of Mr Mawson's holiday letting sites.
5. Copies of the earlier Appeal and Costs decisions (APP/B9506/C/13/2204169), for which a partial award of costs was made in respect of a ground (a) appeal, are before me. However, the circumstances of that case are not the same as here. No ground (a) appeal was argued in this appeal in respect of the MH.
6. Although it was mistakenly argued under ground (f), in this appeal, that the MH itself could be retained for ancillary purposes as a lesser requirement, there is no information before me to indicate this argument had previously been dealt with in the earlier appeal. Indeed, the ground (f) in the earlier appeal very much focussed on what articles/facilities could be retained in the MH as

¹ National Planning Practice Guidance (2014)

part of a discussion which sought to differentiate ancillary use from independent residential accommodation. The appellant, in this appeal, may have had this in mind in his careful selection of facilities for the MH, rather than seeking to intentionally carry out unauthorised development. Based on this matter alone it is difficult to come to a conclusion either way as to whether the appellant behaved unreasonably.

7. The above aside, the NPA state in their costs application they made their position *abundantly clear* to the appellant. However, no copies of any previous correspondence that may have been sent to Mr Mawson to make the NPA's position abundantly clear have been provided.
8. Additionally, the site history section of the NPA's appeal statement (paras. 4.1 to 4.6), refers to pre-application advice being given to Mr Mawson on the siting of the mobile home, along with a further advisory letter in December 2016. However, these also have not been provided.
9. It is unfortunate that copies of the correspondence the NPA refers to have not been submitted. Had they been so they may have provided detailed evidence as to whether the advice given to the appellant was sufficiently clear and precise, and hence whether the appellant subsequently behaved unreasonably in the light of them.
10. For all the above reasons I find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated.

Thomas Shields

INSPECTOR