

CHERWELL DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

Appeal by Mr James Doran against the serving of an Enforcement Notice

relating to land at The Stables, at OS Parcel 3873, Main Street, Great Bourton,
Cropredy, Oxfordshire

Alleging the unauthorised change of use of the land to use as a caravan site
currently accommodating one mobile type caravan designed for human
habitation together with associated parking and storage of motor vehicles
and a trailer, storage of touring caravans and associated domestic
paraphernalia.

Local Authority Reference: 20/00419/ENF

Planning Inspectorate Reference: APP/C3105/C/21/3268454

APPLICATION FOR COSTS BY THE LOCAL AUTHORITY

1. Background

- 1.1. This is an enforcement appeal
- 1.2. The Notice on which the appeal is founded was issued on 8th January 2021
- 1.3. The appeal is dated 7th February 2021
- 1.4. The appeal pleaded ground (d) "That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice" and supplied a statement and Statutory Declaration of Michael Bolton sworn on 13th August 2020
- 1.5. A further detailed statement was submitted dated 14th July 2021 by the Appellants Agent that repeated the grounds and facts relied on in respect of the ground (d) appeal.
- 1.6. No further evidence or representations regarding this ground were received by the local authority before the opening of the hearing on 16th November 2021
- 1.7. At the beginning of the hearing ground (d) was withdrawn

2. Grounds for application

- 2.1. Whilst the parties to an appeal are expected to meet their own costs of pursuing or defending the appeal, if either party has acted unreasonably and caused the other

to incur costs that should not have been incurred as a result of the unreasonable behaviour the Secretary of State or the person appointed to determine the appeal may order that the costs of the other party are paid, are wholly or in part.

2.2. The Planning Policy Guidance (Paragraph: 052 Reference ID: 16-052-20140306) gives examples of unreasonable behaviour that can lead to an award of costs. The bullet points include

- “withdrawal of an appeal without good reason: and
- providing information that is shown to be manifestly inaccurate or untrue

2.3. In addition, the PPG also states at Paragraph: 054 Reference ID: 16-054-20161210 that costs can be awarded if an appeal is withdrawn and that it is:

“withdrawn without any material change in the planning authority’s case, or any other material change in circumstances relevant to the planning issues arising on the appeal, an award of costs may be made against the appellant if the claiming party can clearly show that they have incurred wasted expense as a result.”

3. Application grounds

3.1. At the time of the appeal a statutory declaration was submitted claiming that a previous owner, a Michael Bolton, had resided in a caravan located at the site since March 2010.

3.2. However, the deponent, in 2019, replied to a Planning Contravention Notice (PCN) denying that he was residing at the site.

3.3. At the very least these two documents completed by the same person cannot both be true and therefore their credibility is fundamentally undermined. The withdrawal of the appeal must imply that the appellant recognises that evidence that is at best unreliable and in all probability untrue has been submitted as part of the appeal. No attempt appears to have been made to verify the information in the statutory declaration.

3.4. It is submitted that this was manifestly untrue and should have been appreciated. The appeal on this ground was never going to succeed but the authority has none the less had to prepare to answer it and has had to research history and so on to respond.

- 3.5. The appellants have cited the response to the PCN as the reason for withdrawing the appeal on ground (d). However, the content of the PCN was pointed out and referred to in the statement submitted by the authority in response to the appeal. This was submitted along with the response to the Questionnaire.
- 3.6. The appellant has therefore had since March to consider his position on this but it was not until the opening of the hearing (apparently) that it was finally realised that the appeal on this ground was totally unfounded and that ground withdrawn. Indeed it was only when the Inspector confirmed the hearing agenda that the withdrawal was made.
- 3.7. It is our submission that this behaviour is patently unreasonable. Substantial costs have been incurred in preparing a response and the appellant should now be ordered to meet those costs
- 3.8. Cherwell DC applies accordingly

4. Procedure

- 4.1. We add by way of completeness that this application is made at the appropriate time (PPG Paragraph: 035 Reference ID: 16-035-20161210)