

Costs Decision

Site visit made on 9 August 2016

by Alexander Walker MPlan MRTPI

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

Decision date: 27th September 2016

**Costs application in relation to Appeal Ref: APP/T2350/W/16/3150631
Lambing Clough Barn, Lambing Clough Lane, Hurst Green, Clitheroe,
Lancashire BB7 9QN**

- 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 Mr Richard Wilkinson for a full award of costs against Ribble Valley Borough Council.
 - The appeal was against the refusal of prior approval for change of use of agricultural building to a dwelling house (Class C3), and for associated operational development (Class Q) at Lambing Clough Barn in accordance with Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. I note the appellant's submission with regard to application 3/2015/0959. However, I can only consider whether or not the Council behaved unreasonably in respect of the appeal process in respect of application 3/2016/0125. Accordingly, I have determined the application on this basis.
 4. In support of its first reason for refusal, the Council provided evidence of how they considered the proposed development had already commenced, including a comprehensive list of various works. This evidence was clearly considered against the relevant sections of the GPDO, and whilst I do not concur with the Council on this matter, I do not find that they have acted unreasonably.
 5. The second reason for refusal relates to matters which were already considered under application 3/2015/0959 and found to be acceptable. If the Council found that the curtilage was inadequate then it was open to them to refuse the application. However, reconsidering these issues again under application 3/2016/0125 and coming to a different conclusion, when there was an expectation on behalf of the appellant that only the design or external appearance of the building was to be assessed, is unreasonable behaviour.
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6. Therefore, the Council have acted unreasonably and as a result the applicant has incurred unnecessary costs in appealing application 3/2016/0125, with regard to the second reason for refusal.

Conclusion

7. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has been demonstrated and that a partial award of costs is justified in respect of the appellant addressing the second reason for refusal.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Ribble Valley Borough Council shall pay to Mr Richard Wilkinson the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the second reason for refusal of decision 3/2016/0125.
9. The applicant is now invited to submit to Ribble Valley Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Alexander Walker

INSPECTOR