
Costs Decision

Site visit made on 5 October 2016

by W Fabian BA Hons Dip Arch RIBA IHBC

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

Decision date: 12 October 2016

**Costs application in relation to Appeal Ref: APP/T2350/W/16/3153754
Ellerslie House, Ribchester Road, Clayton le Dale, Blackburn BB1 9EE**

- 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 Ribble Valley Borough Council for a full award of costs against Mr Andrew Milligan.
 - The appeal was against the refusal of planning permission for a dwelling.
-

Decision

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

Reasons

2. Irrespective of the outcome of the appeal, the Planning Practice Guidance 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 Council in making its application cites paragraph 53 of the Guidance, which sets out that an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. This may occur when; the development is clearly not in accordance with the development plan, and no other material considerations such as National Planning Policy are advanced that indicate that decisions should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence. The Council's case is therefore that the appeal has in essence been lodged with 'no reasonable prospect of success'.
4. I have found in my main decision that the proposal would be contrary to the development plan in strategic planning terms and have found that neither National Planning Policy nor the material considerations put forward by the appellant justify deviation from this.
5. The Council wrote to the appellant some four weeks after the appeal was submitted to alert him to several recent appeal decisions, in particular one¹ relating to the site opposite the appeal site and drew his attention to the clear explanation of the strategic policy context set out in it. While that case differs from the appeal proposal in concerning the conversion of a single dwelling into three, the same strategic policy context applies, as I have set out in my

¹ APP/T2350/W/16/3146494

decision. The inspector in that case reached the same conclusion as I have with regard to the principle of additional housing in this particular location. In this context the appellant and his professional adviser should have been aware that there was little prospect of a successful outcome for his appeal and could have withdrawn it.

6. For these reasons I find that the appellant, Mr Andrew Milligan, has behaved unreasonably in pursuing the appeal, which could have been avoided. The Council has been obliged to expend unnecessary time and resources in defending its decision and preparing written submissions for the appeal.

Costs Order

7. In exercise of my 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 powers enabling me in that behalf, I HEREBY ORDER that the applicant Mr Andrew Milligan shall pay to Ribble Valley Borough Council the costs of the appeal proceedings such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
8. The applicant is now invited to submit to Mr Andrew Milligan, 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.

Wenda Fabian

Inspector