
Costs Decisions

Site visit made on 24 October 2016

by Gareth W Thomas BSc(Hons), MSc(Dist), PgDip, MRTPI

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

Decision date: 07 November 2016

**Costs application in relation to Appeal Ref: APP/E2340/W/16/3155958
Part Field No.5647, Ben Lane, Barnoldswick, Lancashire BB18 6HR**

- 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 Liam Green for a full award of costs against Pendle Borough Council.
 - The appeal was against the refusal of outline planning permission for the erection of 4 dwellings with garages (Access, Layout and Scale).
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Decision

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

Reasons

2. The application for costs is made with reference to the Planning Practice Guidance (PPG). The PPG advises that, irrespective of the outcome of the appeal, costs may only be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant's case is both substantive and procedural in nature. For substantive matters, the PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Importantly, any unnecessary costs identified must relate to the appeal process.
4. It appears to me that the Council took particular care in reaching its conclusions in relation to the proposed access with members of the planning committee and the subsequent determining committee also having inspected the appeal site and the surrounding road system. Members narrowed their considerations to the implications of allowing further development to discharge onto Ben Lane. The committee's objection focussed on the nature and character of the lane itself in terms of width and alignment. The location of a primary school nearby also raised concerns.
5. The applicant believes that the committee should have taken on board the views of its officers. However, the exercise of judgment by members of the planning committee is often necessary and local planning authorities are not bound by the advice of its officers. In this instance a reasonable approach was adopted and given the nature and character of Ben Lane I am satisfied that

there was a balance to be struck. The precise wording of the reason for refusal is evidence that there were well founded concerns over the condition of Ben Lane and in this regard and despite my views on the matter, a reasonable decision was reached.

Conclusion

6. Therefore, for the reasons set out above, unreasonable behaviour, either substantive or procedural, resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not therefore justified.

Gareth W Thomas

INSPECTOR