
Costs Decision

Site visit made on 13 February 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 2nd March 2017

Costs application in relation to Appeal Ref: APP/T2350/W/16/3164622 Davis Gate Cottage, Clitheroe Road, Dutton, Longridge PR3 2YT

- 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 and Mrs C Hopwood for a full award of costs against Ribble Valley Borough Council.
 - The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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Decision

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

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. The applicants submit that the Council acted unreasonably in its approach to the consideration of the appeal due to conflicts arising in the development plan and the failure of the Council to amend corresponding parts of policy following modifications requested by the Examining Inspector. Moreover, the Council has not reviewed its case or attempted to explain it and finally that the Council has not provided sufficient evidence to substantiate the second reason for refusal.
 4. The applicant contends that by slavishly following those parts of Policies DMH3 and DMH4 of the Ribble Valley Borough Council Core Strategy 2008-2028 A Local Plan for Ribble Valley (2014) (Core Strategy), the Council has failed to acknowledge the conflicts that arise from those parts of the policy and those parts of the Core Strategy that are permissive of conversions of buildings to dwellings. Also, as an application that accords with the settlement strategy of the development plan, it should have been approved.
 5. However, I have given reasons in my main decision why I agree with the Council. I am satisfied that the Council adequately substantiated the first reason for refusal in particular, based on reference to the development plan. The decision notice clearly sets out the Council's areas for concern and the Council's statement clearly expressed its point of view. The Council was fully entitled to reach a decision based on its interpretation of adopted policies. In
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- that this differed to the applicants' interpretation does not amount to unreasonable behaviour.
6. The applicants state that in failing to amend the wording in the Core Strategy policies following the modification requested by the Examining Inspector, the application was not correctly determined. However, having regarded the submitted extract from the Inspector's report, it was noted that the only modification to Policy DMH4 was in fact implemented. Furthermore, the Core Strategy was adopted following the publication of the National Planning Policy Framework (the Framework) and found to be compliant with it. No evidence was submitted to demonstrate that further changes that the applicants thought necessary were requested. The Council determined the application in accordance with a recently adopted development plan. This approach was appropriate and in line with advice contained within the Framework.
 7. Accordingly, these matters do not persuade me that the Council failed to properly evaluate the application or consider the merits of the scheme and this was substantiated by the Council in its officer report and appeal statement.
 8. The applicants state that the Council did not respond to letters pertaining to the above which, had they done so, may have avoided the appeal or narrowed the issues. The Council assert that following receipt of the letter, a conversation was held with the applicants' agent during which it was conveyed that the letter had been considered but that it did not alter the policy stance in respect of the application. Whilst I can appreciate the applicants' frustrations at not receiving a formal reply, I am not persuaded that this would have avoided the appeal or narrowed the issues given the Council's concerns fundamentally related to the principle of the development.
 9. The applicants contend that the Council did not substantiate the second reason for refusal in relation to precedent. I acknowledge that the appeal decisions the Council submitted with the appeal do not consider the consequences of the application of Policy DHM4. However, they were not submitted in support of the second reason of refusal, rather they were submitted as examples of where the development strategy within the Core Strategy had been upheld. Whilst there was a lack of specific evidence provided by the Council in relation to particular sites, that in itself does not demonstrate that the Council acted unreasonably as a whole given that the precedent concern was clearly related to, and backed up, the main concerns embodied in the first reason for refusal which have also led me to find the appeal scheme unacceptable.
 10. Taking the above into account, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated. Consequently, an award of costs is not justified.

Caroline Jones

INSPECTOR