
Costs Decision

Site visit made on 19 December 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 3 April 2017

**Costs application in relation to Appeal Ref: APP/E2340/W/16/3160241
Knarrland Farm, Warley Wise Lane, Laneshawbridge, Colne, Lancashire
BB8 7ES**

- 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 Pendle Borough Council for a full award of costs against Mr & Mrs Alan & Michele Sheraton.
 - The appeal was against the refusal of planning permission for an eco-dwelling on the derelict site of former kitchen garden.
-

Decision

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

Reasons

2. Paragraph 030 of the National Planning Practice Guidance (NPPG) advises that costs may 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. Paragraph 053 of the NPPG sets out the type of behaviour that may give rise to a substantive award of costs against an appellant. This states that the right of appeal should be exercised in a reasonable manner and that an appellant is at risk of an award of costs being made against them if the appeal or grounds of appeal had no reasonable prospect of succeeding. This may occur where material considerations are advanced but that there is inadequate supporting evidence.
 4. The Council's case is essentially that the appellants have behaved unreasonably in making the appeal which had no reasonable prospect of success and that the appellants failed to submit sufficient evidence to demonstrate that the proposal meets the relevant tests of paragraph 55 of the National Planning Policy Framework (the Framework). In particular the Council state that the appellants submission failed to address all of the relevant criteria of the fourth bullet point of paragraph 55.
 5. I have been provided with copies of email correspondence between the Council and the appellants in which the Council expressed concern regarding the justification submitted for a new dwelling on the appeal site and warned of a possible application for costs by the Council should any future appeal be submitted. However the parties have confirmed that the correspondence did not in fact relate to the appeal application.
-

6. I am satisfied that in submitting the appeal the appellants genuinely felt that it had a reasonable prospect of success. The application and appeal contained supporting information which whilst not substantial in length, acknowledged the need for the proposal to meet the requirements of paragraph 55 of the Framework. Though each criteria of the fourth bullet point were not expressly stated, the supporting information submitted by the appellants did in my view reasonably attempt to address the requirements of all aspects of the fourth bullet point by attempting to explain what in the appellants view was innovative about the proposal, how it reflected the highest standards in architecture and how it would affect its setting and be sensitive to the defining characteristics of the local area.
7. Whether a proposal meets the requirements of paragraph 55 is a matter of judgement and whilst as set out in the appeal decision my judgement is that the proposal does not meet the requirements, I do not consider that the appellants have behaved unreasonably in submitting the appeal or that they have failed to submit sufficient evidence to substantiate their grounds of appeal.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all matters raised, an award of costs is not justified.

Beverley Wilders

INSPECTOR