
Costs Decision

Hearing held on 4 April 2017

Site visit made on 4 April 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 11th May 2017

Costs application in relation to Appeal Ref: APP/N2345/W/16/3162028 JS Chickens (Bilsborrow) Ltd, Rabys Farm, Bilsborrow, Preston, PR3 0RP

- 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 Preston City Council for a full award of costs against Miss Sarah Stuart.
 - The hearing was in connection with an appeal against the refusal of planning permission for an agricultural workers dwelling.
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Decision

1. The application for an award of costs is allowed in part.

Reasons

2. Planning Practice Guidance ("PPG") 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 submits that the appellant has behaved unreasonably in that they did not disclose details of existing properties that were potential alternatives to the appeal proposal. Furthermore, the appellant submitted late evidence on the day of the hearing, which led to an adjournment and additional discussion time.
 4. During the hearing it became apparent that there were 2 additional properties in the family's ownership within the farm complex. The Council submitted late evidence to the hearing in relation to a listed property near to the main farm house. In addition, during the discussion it emerged that an existing bungalow fronting onto Bilsborrow Lane was also in the family's ownership.
 5. With regards to the bungalow, the appellant states that it has been occupied by a family member for many years, who is a retired agricultural worker. This was not disputed by the Council, and the property appeared to be occupied and well maintained on my site visit. Given that this property is not available, it was not unreasonable for the appellant to omit reference to it in their submissions.
 6. Turning to the listed property, the Council state that they only became aware of this shortly before the date of the hearing. Had they known of its existence prior to determining the application, the Council state that they would have requested detailed evidence to be submitted regarding the costs of converting this property. The Council implied that this would have brought into question the appropriateness of an outline application. However, the nature of
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application is at the appellant's discretion. The listed property is currently in a dilapidated condition and it has not been occupied as a dwelling for many years. It appeared to be currently used for storage at the time of my site visit. The appellant states that they did not refer to this property as it is earmarked for conversion to offices to serve another business that operates from the farm. In this regard, they state that grant funding has been applied for to fund its conversion to office use. The Council confirmed that this building was granted planning permission for office use in 2003, although this permission has since lapsed. In these circumstances, and on balance, I do not consider that the appellant acted unreasonably in not highlighting the listed property in their submissions.

7. In terms of the late evidence that was submitted at the hearing, this comprised letters of support from the National Farmers Union, Minister Poultry Vets, and Gafoor Pure Halal (whom the appellant supplies). Each of these was dated between 20-24 February 2017, well before the date of the hearing. The submission of this late evidence necessitated two adjournments. The first of these lasted 10 minutes to allow the Council to consider how much time would be required to review this evidence. A second adjournment lasting around 30 minutes then took place to fully consider this evidence (and other late evidence submitted by the Council). Additional time was also taken up during the hearing discussing this matter. At the hearing, the appellant confirmed that they bore sole responsibility for the delay in providing these letters, and that there were no exceptional reasons to justify this.
8. PPG lists examples of the behaviour that may give rise to a procedural award of costs against an appellant. This includes: *"introducing fresh and substantial evidence at a late stage necessitating an adjournment"*. For the reasons set out above, the appellant acted unreasonably in submitting late evidence, which led to adjournments and additional discussion time at the hearing. In these circumstances, extra costs were incurred, and a partial award of costs in these specific respects is justified.

Conclusion

9. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

10. 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 Miss Sarah Stuart shall pay to Preston City Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in dealing with the late evidence submitted by the appellant; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. Preston City Council is now invited to submit to Miss Sarah Stuart, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Hatfield

INSPECTOR