
Costs Decision

Site visit made on 16 May 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 16 June 2017

**Costs application in relation to Appeal Ref: APP/E2340/W/17/3169432
Hollin Hall Farm, 517 Gisburn Road, Blacko, Nelson, Lancs, BB9 6LZ**

- 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 Daniel Hall for a full award of costs against Pendle Borough Council.
 - The appeal was against the refusal of planning permission for the erection of fourteen dwellings. Demolition of Hollin Hall Farm to form new access.
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Decision

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

Reasons

2. Planning Practice Guidance (the Guidance) 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 the costs to incur unnecessary expense in the appeal process. It goes on to state that unreasonable behaviour may be either procedural or substantive in nature.
 3. Of the examples of unreasonable behaviour on substantive grounds given in the Guidance, the appellant considers that the Council have; prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failed to produce evidence to substantiate each reason for refusal on appearance; and offered vague, generalised or inaccurate assertions about a proposals impact, which are unsupported by any objective analysis.
 4. The application was refused for a single reason; the effect of the proposed development of the appeal site on the landscape character and quality of the area. I accept that the Council's Statement of Case (SofC) is somewhat brief. However, I do not share the appellant's view that the Council have failed to substantiate the reason for refusal in their SofC, or relied upon vague, generalised or inaccurate assertions in reaching a conclusion that differed from the advice of its professional officers.
 5. In it, the Council set out, albeit relatively briefly, their assessment of the character and form of Blacko and the site's relationship with it. I am also satisfied that they have identified what harm arises and from where it is experienced. It is also evident that Members of both the Barrowford and Western Parishes Committee and the Development Management Committee visited the site prior to their consideration of the proposals and so were able to
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base their assessment of the site, the context of its surroundings, the wider landscape and the proposal itself upon what they saw. In the absence of objective analysis of the landscape characteristics from either party, it is not unreasonable to rely upon a subjective assessment. On the basis that Members visited the site, and having regard to the Council's Sof C, I am not persuaded that the Council failed to take account of the site's characteristics, or that they were reliant upon illustrative material produced with the appeal.

6. I have concluded elsewhere that with regard to the substantive matters of the case the proposal would fail to accord with policy ENV1 of the Pendle Local Plan Part 1: Core Strategy (CS) in that the proposal would fail to safeguard or enhance the landscape character of the area. I do not agree that the proposal would accord with CS policy LIV1, notwithstanding that the site is close to a settlement boundary, because the relevant section of CS policy LIV1 is qualified by the proposal having to accord with other policies of the CS. I have concluded that that would not be the case in this instance. Thus, I conclude that the Council have not prevented or delayed development that should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

Conclusion

7. I therefore conclude, for the reasons set out, that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award of costs is not therefore justified.

Graeme Robbie

INSPECTOR