
Costs Decision

Site visit made on 20 June 2017

by Elizabeth C Ord LLB(Hons) LLM MA DipTUS

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

Decision date: 26 June 2017

Costs application in relation to Appeal Ref: APP/B2355/X/17/3166371 1 West View, Tong Lane, Bacup, Lancashire, OL13 9XB

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Colin Stansfield for a full award of costs against Rossendale Borough Council.
 - The appeal was against the refusal of a certificate of lawful use or development (LDC) for a double garage, goat and hen house, domestic store and hard standing.
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Decision

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

Reasons

2. An award of costs may be made 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 Appellant contends that the Council acted unreasonably by refusing a LDC in light of what he indicates is clear evidence in support of a LDC and a lack of evidence underpinning the reasons for refusal. The burden of proof is on the Appellant and I have dismissed the Appellant's appeal on the basis of insufficient evidence to support the LDC application. It therefore follows that no award of costs should be made against the Council on this basis.
 4. The Appellant further submits that the Council has considered irrelevant matters such as the positioning of the proposed building, the amount of hardstanding and excavations. However, location was referred to in the context of showing that the dwelling already benefits from a garage and goat house that, in the Council's view, are better located than the proposed. The resulting volume of buildings and hardstanding was referenced to show they would go beyond what is reasonably necessary for purposes incidental to the enjoyment of the dwellinghouse. The proposed excavations would be significant and materially change ground levels, and in the Council's opinion would bring the development outside Classes E and F of the Town and Country Planning (General Permitted Development)(England) Order 2015. All of these issues are reasonable for the Council to include in its reasons for refusal.
 5. Whilst the Appellant indicates that the Council has failed to consult or correspond prior to refusing the application, he has not demonstrated why this amounts to an unreasonable lack of co-operation.
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6. In conclusion, I do not find that the Council has acted unreasonably and, therefore, the Appellant's application is refused.

Elizabeth C. Ord

Inspector