



Costs Decision

Site visit made on 26 June 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 19 July 2017

Costs application in relation to Appeal Ref: APP/W0910/W/3171362 9 Parkhouse Court, Parkhouse Road, Barrow-in-Furness LA13 0PL

- 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 Russell Beck for a full award of costs against Barrow-In-Furness Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a livestock building for over-wintering cattle.
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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 an appeal, costs may only be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Awards against a local planning authority (LPA) may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. In this instance, the appellant's claim relies on both procedural and substantive arguments.
4. With regard to procedural matters, I can appreciate the appellant's apparent frustration regarding the length of time taken to determine the planning application. The Guidance¹ gives advice on when an LPA's handling of the planning application prior to the appeal may lead to an award of costs, stating that if it is clear that the LPA will fail to determine an application within the time limits, it should give the applicant a property explanation.
5. From the evidence before me it seems to me that the progress of the application evolved through mutual co-operation and both parties working together to identify, and subsequently resolve, those issues prior to a recommendation being put to the planning committee. I have also noted that the appellant agreed to a formal extension of time within which to determine the planning application. Whilst I acknowledge that the appellant sought to be cooperative in agreeing an extension of time with the Council, if this was a matter of concern the appellant could have appealed against the Council's failure to determine the application within the prescribed time limit.
6. With regard to substantive matters, the appellant's case relies on the fact that the application was recommended for approval by the Council's officers but

¹ Paragraph 048 Reference ID: 16-048-20140306

that members of the planning committee reached a different conclusion, contrary to that advice. The Council have not submitted a Statement of Case, instead relying on the planning committee report dated 31 January 2017. However, it seems that in circumstances where the planning resolve to refuse an application contrary to officer advice, the Council defer the formal decision to allow an updated report to be presented to a subsequent meeting of the committee to formalise the reason for refusal.

7. I am satisfied that that subsequent report adequately set out, albeit briefly, the main issues that led to the Council's conclusion and refusal reasons and that these can, again albeit in brief terms, be construed as being the Council's substantiated reason for refusal. Although I have reached a different conclusion to that of the Council, that does not mean that they were not entitled or justified to reach the conclusion that they did.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. An award of costs is not therefore justified in this instance.

Graeme Robbie

INSPECTOR