
Costs Decision

Site visit made on 17 October 2017

by A A Phillips BA (Hons) DipTP MTP MRTPI

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

Decision date: 14 November 2017

Costs application in relation to Appeal Ref: APP/P2365/W/17/3181518 Plot 7, Chapel Lane, Parbold WN8 7TN

- 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 David Hughes for a full award of costs against West Lancashire Borough Council.
 - The appeal was against the refusal of an application for a stable building with a tack room, change of use of land for keeping horses and engineering works to provide a private mooring.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The appellant submits that the Council has acted unreasonably in that it has gone against the advice of its professional officers without good reason and failed to fully substantiate the refusal on the grounds of harm to the openness and visual amenity of this part of the Green Belt. The appellant contends that the proposal complies with the development plan and should have been permitted and consequently the appeal has caused the appellant unnecessary expense in preparing the documentation for the appeal. This constitutes unreasonable behaviour.
3. The Planning Practice Guidance (PPG) advises that irrespective of the outcome of an appeal 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.
4. The PPG makes it quite clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal or makes vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by any objective analysis.
5. Although the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council must clearly demonstrate on material planning grounds why a proposed development is unacceptable and must provide clear evidence to substantiate that reasoning. Other than stating that the proposal would have a more than neutral impact on the openness of the Green Belt there seems to me to be little in the way of objective analysis of the proposal in the context of the development plan and the Framework. There is no clear indication of why the proposal is inappropriate development other than an assertion which appears to claim that any building on the site would be

harmful to openness. If the intention of policy was to preclude all built forms of development from the Green Belt then there would be no exceptions as clearly set out in Paragraph 89 of the Framework.

6. Furthermore, given the Council's rather vague argument regarding the effect of the proposal on openness it is unclear why at the same committee a decision was taken to approve a similar proposal on the adjacent site which seems to me to go against the argument presented with the current appeal.
7. It appears to me that in the planning judgement having regard to the development plan, national planning policy and other material planning considerations the development should reasonably have been permitted. Therefore, the refusal of planning permission in this particular case represents unreasonable behaviour contrary to the guidance in the Framework and the PPG and the appellant has consequently been faced with the unnecessary expense associated with lodging the appeal.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

9. 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, IT IS HEREBY ORDERED that West Lancashire Borough Council shall pay to Mr David Hughes the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to West Lancashire Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Alastair Phillips

INSPECTOR