
Costs Decision

Site visit made on 16 July 2019

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2019

Costs application in relation to Appeal Ref: APP/T2350/W/19/3228826 Seven Acre Bungalow, Forty Acre Lane, Longridge PR3 2TY

- 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 Ribble Valley Borough Council for a full award of costs against Mr & Mrs Ball.
 - The appeal was against the refusal of planning permission for the conversion of the existing bungalow into a double garage and store and the creation of a replacement two storey dwelling.
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Decision

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

Reasons

2. The 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 in making its application cites paragraph 052 and 053 of the PPG. At paragraph 052, the PPG explains that appellants are required to behave reasonably in relation to the procedural matters at appeal. The non-exhaustive list of examples of unreasonable behaviour in the appeal procedures in this paragraph include providing information that is manifestly inaccurate or untrue.
4. At paragraph 053, the PPG explains that the right of appeal should be exercised in a reasonable manner; an appellant is at risk of an award of costs being made against them on substantive grounds if their appeal had no reasonable prospect of succeeding. This may occur when the development is clearly not in accordance with the development plan, and no other material considerations are advanced that indicate that decisions should have been made otherwise. Alternatively, where other material considerations are advanced, there must be adequate supporting evidence.
5. The Council sought an award of its costs on procedural and substantive grounds. The Council stated that the appellants had provided wrong, incomplete and/or misleading information in that the appellants misrepresented the pre-application advice given by the Council. Also, the Council stated that the appellants' have given little regard to the adopted status of the development plan and its compliance with the National Planning Policy Framework in submitting the original application and appeal, and no

- substantive reasoning has been put forward by the appellants. Therefore, the Council considered that the appeal had no reasonable prospect of success.
6. The Council contends that the appellants misrepresented the pre-application advice given within their statement of case by suggesting that references to concerns regarding the extension of the garden curtilage were not cross referenced with the relevant policy. I have had sight of the pre-application advice given by the Council as part of the appeal and it is evident to me that the Council's position was clear regarding the principle of a replacement dwelling and the relevant criteria laid out in Policy DMH3 of the Ribble Valley Core Strategy 2008-2028 (CS) adopted December 2014. I do agree therefore that the wording within paragraph 4.1 of the appellants' statement of case does provide an inaccurate representation of the pre-application advice.
 7. Whilst this paragraph does inaccurately represent the pre-application advice given, the paragraph appears to me to set the context for the appellants' case rather than forming the basis of the case. Furthermore, the inaccurate representation of the pre-application advice has not in itself demonstrably required the Council to undertake additional work for the appeal. The pre-application advice letter has been provided in full and this evidence confirms the advice provided by the Council. It seems to me that there has been so little extra work involved in responding on this matter that it can be regarded as *de minimis*. In effect the Council has quickly and easily rebutted the appellants' position without wasting expenditure. As such it does not constitute valid grounds for an award of costs.
 8. That I found in favour of the Council on the substantive matters of the appeal does not determine the outcome of this application for an award of costs. I do agree with the Council that references in paragraph 7.5 of the appellants' statement of case that the proposals fully comply with Policy DMH3 of the CS are incorrect. The third criterion of this policy requires that there be no need to extend an existing curtilage. The proposals clearly seek an extension of the existing garden curtilage and it therefore stands to reason that it cannot comply with the third criterion. However, the appellants' case was not without substance.
 9. The appellants' arguments when read as a whole did have some standing and I have had to consider their arguments carefully. Issues relating to character and appearance and any effects on the living conditions of the neighbouring property are largely subjective. The National Planning Policy Framework, the relationship to the neighbouring properties and the extent of works previously approved and undertaken on adjacent sites and their relevance to the appeal proposals were put forward as material considerations. Whilst the case was ultimately unpersuasive, I do not agree that it had no prospect of success.
 10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. It follows that an award of costs is not justified.

Robert Walker

INSPECTOR