



Costs Decision

Site visit made on 5 November 2019

by J M Tweddle BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th November 2019

Costs application in relation to Appeal Ref: APP/A2335/W/19/3235671 Keer Holme Barn, Keer Holme Lane, Capernwray, Lancaster, Lancashire LA6 1AW

- 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 T A Askew for a partial award of costs against Lancaster City Council.
 - The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for development described as the 'conversion of existing barn adjoining Keer Holme Farmhouse to a 3 bed dwelling'.
-

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 applicant alleges that the Local Planning Authority (LPA) has failed to substantiate its fourth reason for refusal in relation to highway safety. The applicant is of the view that the Highway Authority did not object to the proposal and therefore the LPA have acted unreasonably by including this as a reason for refusal and without providing further evidence to justify this.
4. The consultation response from the Highway Authority requires a visibility splay of 120 metres in each direction following concessions in the standard 'x' and 'y' distances due to the rural nature of the road. Whilst the Highway Authority did not explicitly object to the proposal in their comments, it was clear from my site visit that the necessary visibility splays cannot be achieved due to the presence of existing buildings flanking the current access to the site.
5. I therefore consider that it was entirely reasonable for the LPA to apply the visibility requirements as specified by the Highway Authority and, based on their own analysis of the proposal, to reach the conclusion they did over the acceptability of the proposal in highway safety terms. I appreciate the likely frustration from the applicant over this matter, but they have not provided a plan or any other evidence to suggest that the required visibility splays can be achieved. In this context, I am of the view that the LPA was entitled to reach the conclusion it did.

6. Consequently, I cannot agree that the LPA has acted unreasonably in this case. As such, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

Jeff Tweddle

INSPECTOR