



Costs Decision

Site visit made on 17 February 2020

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th March 2020

Costs application in relation to Appeal Ref: APP/Z2315/W/19/3240802 14 Higham Road, Padiham BB12 9AP

- 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 Craig Parker for a full award of costs against Burnley Borough Council.
 - The appeal was against the refusal of planning permission for a detached house with new access from Pennine Grove.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and that this unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers that the Council has prevented or delayed development which should clearly have been permitted, and, has displayed inconsistency in its application of Policy HS4 (housing developments) of the Burnley Local Plan 2018.
4. Planning applications should generally be determined in accordance with the development plan, unless material considerations indicate otherwise¹. In this case, the conflict with Policy HS4 of the development plan is not disputed.
5. The Council's officer report² summarises the issues of conflict with Policy HS4 and includes reference to an objection made by the occupiers of 26 Pennine Grove. The proposed development was refused planning permission against officer recommendation. However, this in itself is not evidence of unreasonable behaviour. Elected Members are entitled to reach a different planning judgement on a proposal than officers, which is what they have done in this case.
6. The Council's reason for refusal specifies the conflict with the development plan and the harm that the Council considers would be caused as a result. This is not a development which should clearly have been permitted, as I have found

¹ Paragraph 12 of the National Planning Policy Framework 2019 (the Framework).

² *Impact on residential amenities* section, pages 5-7.

in my main decision, and from the appellant's statement of case it is clear that they understood the Council's reason for refusal.

7. The inconsistency referred to concerns a planning permission that was granted at 7 Higham Road, despite also conflicting with the spacing requirements contained in Policy HS4. Policy HS4 allows for some flexibility in its application, as acknowledged by the applicant at paragraph 7.1 of their statement of case.
8. Furthermore, from the evidence there are differences between the appeal proposal and the development at 7 Higham Road, including with regard to separation distances. As such I am not satisfied that the different decisions are evidence of unreasonable behaviour.
9. From the information before me, I find that unreasonable behaviour by the Council, resulting in unnecessary or wasted expense as described in PPG, has not been demonstrated.

Conclusion

10. For the reasons given above, and taking all relevant matters into account, I conclude that an award of costs is not justified.

Andrew Parkin

INSPECTOR