



Costs Decision

Site visit made on 14 January 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date:

**Costs application in relation to Appeal Ref: APP/G2713/W/19/3240377
Existing storage structures and land to the west of Number 46 (Rawcliffe)
Cooper Lane, Potto DL6 3HA**

- 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 Hambleton District Council for a full award of costs against Mr Anton Lang.
 - The appeal was against the refusal of planning permission for a development described as 'Demolition of two smaller storage structures and reduction in height and conversion of existing large storage structure into one, single-storey bungalow dwelling with integral garage and associated external alterations to provide new brick walls and tiled roof externally, new windows and doors, access driveway, gardens/curtilage behind 1 metre high boundary fence, and new tree planting line'.
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Decision

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

Reasons

2. The Planning Practice Guidance 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's application for an award of costs is predicated on the substantive ground that the appeal follows two earlier appeal decisions in respect of the same, or a very similar, development on the same site where, in each case, an Inspector decided that the proposal was unacceptable, and that the circumstances have not materially changed in the intervening period.
4. Only the most recent appeal decision¹ has been provided with the evidence, although both this decision, and other documents submitted by the parties, refer to an earlier decision² which also relates to the current appeal site.
5. The Council's planning policies have not altered since the previous appeal decisions were made. Although the appellant contends that National policy and case law which has changed since the previous appeals were submitted, both the previous decisions post date the High Court Judgement in respect of *Braintree District Council v Secretary of State for Communities and Local Government* [2017] EWHC 2743 (Admin), which addressed the matter of how

¹ Appeal reference: APP/G2713/W/18/3201473, dated 25 September 2018.

² Appeal reference: APP/G2713/W/17/3180127, dated 30 November 2017.

the word 'isolated' should be interpreted in the context of the National Planning Policy Framework. The revised version of the National Planning Policy Framework (the Framework) was published in July 2018, which is after the first appeal decision, but before the second decision was issued. The 2018 appeal decision specifically considered the revised Framework. Although the Framework was subsequently revised again in February 2019, those revisions related to matters that are not disputed matters in this case. There is no evidence before me that would indicate that the physical circumstances of the appeal site, or any nearby land, has changed since the previous appeals were determined. In these respects, the circumstances have not materially changed in the intervening period.

6. It is not disputed that the present appeal relates to the same site and the same building as these previous decisions. The question is, therefore, whether the proposal that is the subject of the current appeal amounts to the same, or a very similar, development to the previous cases.
7. I have not been provided with copies of the drawings illustrating the earlier proposals. Nonetheless, from the written descriptions in the various documents that have been provided by both parties, the first proposal would have resulted in the creation of two, two storey, dwellings and the second proposal would have provided two dormer bungalows. The present appeal proposal is for the creation of a single bungalow without accommodation in the roof space. The successive proposals have reduced both the height and appearance and, latterly, also the number of dwellings proposed. In this context, I cannot find that the current proposal is the same, or very similar, to the previous cases.
8. Although, ultimately, I have found against the appellant and dismissed the appeal, the previous decision turned on both the location of the appeal site and the appearance of the resulting building. The current proposal amended the external appearance of the development in an attempt to address the points that were raised by the previous Inspector. Each appeal must be considered on its own merits and whilst the previous appeal decisions are considerations to be taken into account, given the alterations to the proposal, it is not possible to conclude that the current appeal had no reasonable prospect of succeeding.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

John Dowsett

INSPECTOR