

Costs Decision

Hearing Held on 17 March 2020

Site visit made on 17 March 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2020

Costs application in relation to Appeal Ref: APP/D2320/W/19/3242349 Hall O'Th Hill Farm, Chorley Road, Heath Charnock, Chorley PR6 9HX

- 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 Chorley Borough Council for a partial award of costs against Mr Richard Riley.
 - The hearing was in connection with an appeal against the refusal of planning permission for an outline application for a single dwelling.
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Decision

1. The application for a partial award of costs is refused.

Procedural Matter

2. The Council's costs application was emailed to the Planning Inspectorate late in the afternoon before the Hearing. However, the appellant confirmed receipt of the costs application before the Hearing opened and that he was able to review it and to develop a verbal response.

The submissions for Chorley Borough Council

3. The costs application was made in writing at the Hearing. The Council advises that additional information was requested during the assessment of the planning application, but the appellant's response did not address the request. The Council further asserts that the appeal submission also provides inadequate evidence in this regard and the appeal is therefore unnecessary. The Council have applied for a partial award of costs to cover the fees encountered by the Council to have its agricultural advisors to prepare for and attend the hearing. The Council added verbal comments at the Hearing claiming that throughout the process, no specific evidence to demonstrate that other dwellings in the area are not suitable and the essential functional need had not been demonstrated. A further assertion was made that the appeal was unnecessary.

The response for Mr Richard Riley

4. The appellant responded verbally to the Council's grounds for an award of costs at the Hearing. The appellant considers that there is a clear difference of opinion between the main parties regarding the functional need of the agricultural enterprise, and as a consequence of the refusal of the planning application an appeal was necessary. The appellant contends that there is justification for the additional dwelling both in respect of the current situation and in planning for the future. Furthermore, the appellant considers that

whether the appeal is successful or not, the Council decided to defend its position, and it was its decision to have its advisors present at the hearing.

Reasons

5. 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.
6. I note the Council's opinion on the Questionnaire that the written procedure was suitable. However, it was decided that the appeal would be dealt with at a Hearing, to enable a detailed discussion to take place, and to explore the evidence of agricultural need for the dwelling in discussion with the main parties. Given the nature of the proposed development and the issues in dispute, I consider it unlikely that this discussion would not have been required.
7. For the reasons given in my appeal decision, I have found that the proposed development would not be acceptable and the impacts likely to be generated would be harmful to the Green Belt and not outweighed by other considerations, which in this instance surrounds the essential need for a further rural worker to reside on the agricultural unit.
8. I find that the decision on the planning application was a matter of judgement and in this instance, the appellant was entitled to dispute the Council's decision to refuse his application. The appellant has provided evidence in support of his submission, although not substantial, it does set out the reasoning for why they consider there is a functional need for a further dwelling on the agricultural unit. Whilst, the Council do not agree with the appellant's case, that does not mean the appellant has behaved unreasonably in submitting the appeal.
9. The Council felt obliged to bring its agricultural advisors to the Hearing, so as to address any issues on the reason for refusal at the Hearing. Nonetheless, parties in planning appeals and other planning proceedings normally meet their own expenses. I acknowledge that the Council has incurred costs, but in this particular case, I am satisfied that the appellant did not submit an unnecessary appeal that could otherwise have been avoided.
10. I consider the expenses incurred in making the arrangements for and attending the Hearing were reasonably expected and necessary. Consequently, I find no procedural nor substantive grounds for an award of costs. I therefore find that unreasonable behaviour by the appellant, resulting in unnecessary or wasted expense as described in the PPG, has not been demonstrated.

Conclusion

11. For the reasons given above, I conclude that a partial award of costs is not justified.

W Johnson

INSPECTOR