Costs Decision

Site visit made on 11 March 2020

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 04 May 2020

Costs application in relation to Appeal Ref: APP/A2335/X/19/3228823
New House Farm, Lancaster Road, Slyne, Lancaster LA2 6AW

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Mr Kevin Sanderson for a full award of costs against Lancaster City Council.
- The appeal was against the refusal of a certificate of lawful use or development for reinstatement and use of access for vehicular purposes.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

3. Councils may be at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, or for relying on vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

4. The gist of the appellant's case for costs is that the Council behaved unreasonably by refusing to accept the justified reasoning set out in the LDC application. He contends that the Council failed to consider properly his evidence that the access to Newhouse Farm has been in continuous use via various modes of transport for at least ten years preceding the planning permission Ref: 1/84/0441. However, there does not seem to be any dispute over this particular matter, as it seems that the track was originally a vehicle access prior to the 1984 application.

5. The appellant also cites the resistance of the Council to accept what would constitute development when it is clear, in his opinion, that any works taking place to the existing access to reinstate a vehicle access at the appeal site would be minimal and would not constitute development.

6. As may be seen from the appeal decision, I have found that the existing pedestrian access was lawful at the time of the LDC application. However, I

have also found that when the operation to reinstate the vehicle access is considered as a whole, without breaking it down into its component parts, then it would amount to development requiring planning permission.

7. However, these are matters of professional opinion in light of the available evidence, which are often found to differ without involving unreasonable behaviour. The Council have explained their position in some detail, presenting a significant level of analysis to support their arguments. The fact that they have reached a different conclusion to the appellant does not amount to unreasonable behaviour. Furthermore, I consider that the appeal was necessary in order to examine the issues at hand.

Conclusion

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

Elaine Gray

INSPECTOR