



Costs Decision

Site visit made on 15 May 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th May 2020

Costs application in relation to Appeal Ref: APP/P2365/W/20/3244431 70 Moss Lane, Hesketh Bank, PR4 6AB

- 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 Adam Ferris of Property Development and Consultancy Ltd for an award of costs against West Lancashire Borough Council.
 - The appeal was against the refusal of planning permission for a detached 2 bed dwelling.
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Decision

1. The application for an award of costs is allowed in part.

Reasons

2. 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 appellant submits that the Council has acted unreasonably in that it failed to determine the application based on a revised plan that was submitted 3 months before the refusal of planning permission.
4. The revised plan was submitted by email on 15 April 2019 and was received and opened by the Case Officer. Whilst this plan was not submitted to a dedicated inbox that the Council operates, it was nonetheless received well before the application was determined. The Council acknowledges that the failure to consider the revised plan was an error on its part, although it points to a number of staffing issues it has been experiencing. However, it is not clear that these issues led to the revised plan being overlooked, and in my view, the Council clearly acted unreasonably in failing to consider it.
5. The revised plan proposed a number of alterations to the development, including the removal of a side facing bedroom window, a reduction in the ridge height, and changes to the eave heights. These alterations would have removed any overlooking towards No 2 Granville Avenue, which is referred to in the Council's second reason for refusal. The reduction in ridge and rear eaves heights were also intended to address the other matters raised by the Council. However, given the proximity of the development to the boundary with No 68 Moss Lane, and the Council's concerns regarding its position and design, it is highly unlikely that these alterations would have resulted in the development being approved. Accordingly, the appeal would not have been avoided had the Council taken the revised plan into account. Nevertheless,

insofar as the appellant has had to describe this error and address the impact of the development on No 2 Granville Avenue in its written submissions, it has incurred wasted and unnecessary expense.

6. Separately, the Officer Report states that the proposal consists of a "*two storey dwelling*". In this regard, both the initial and revised plans show a dwelling that would contain accommodation across 2 floors. Whilst the proposal would clearly be lower in height than a traditional 2 storey property, I do not consider that it was unreasonable for the Council to describe the development in this way.

Conclusion

7. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that West Lancashire Borough Council shall pay to Mr Adam Ferris of Property Development and Consultancy Ltd the costs of the appeal proceedings described in the heading of this award limited to those costs incurred in describing the failure of the Council to consider the revised plan and in addressing the impact of the development on No 2 Granville Avenue in its written submissions; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. Mr Adam Ferris of Property Development and Consultancy Ltd is now invited to submit to West Lancashire Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Hatfield

INSPECTOR