
Costs Decision

Site visit made on 1 June 2020

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2020

**Costs application in relation to Appeal Ref: APP/B2355/W/19/3243911
Land off Goodshaw Lane, Crawshawbooth, Rossendale (Easting: 381414,
Northing: 426037)**

- 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 Dave Topham for a full award of costs against Rossendale Borough Council.
 - The appeal was against the refusal to grant permission in principle for stage 1 Permission in Principle: Application for up to 4 no. self-build dwellings.
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Decision

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

Reasons

2. The 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 PPG indicates that local planning authorities are at risk of an award of costs if they behave unreasonably by, amongst other things, not determining similar cases in a consistent manner or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. I recognise that there has been an application at Folly House which was approved by the Council. However, as can be seen from my decision, this site has characteristics that distinguish it from the appeal site. A site's position in relation to the settlement is not determinative in respect of whether it has an open and rural character. It is not unreasonable for the Council to assess the appeal site and conclude that it has an open, rural character as this exercises a certain amount of subjective judgement.
5. The Council did not refer to the allowed appeal at No 121 Goodshaw Lane in its Officer Report. Given its location close to the appeal site, I agree that this is a material consideration. Even if I were to conclude that the Council acted unreasonably in not having regard to this decision in its Officer Report. It is clear from its Statement of Case submitted as part of the appeal, that it considers the 2 sites to have different characteristics that warrant a different approach. As such, this has not led to any wasted expense in the appeal.

6. I confirm in this regard that I have made my own assessment as to the character and appearance of the appeal site and surrounding area, the effects of the proposal on this matter and whether there is conflict with the Council's policies of the Core Strategy Development Plan Document (adopted 2011). Consequently, I find that the Council has not acted unreasonably with regard to consistency in decision-making.
7. The application was submitted for self-build housing and it is clear from the Officer Report the assessment was made on this basis. I recognise that the Officer Report did not specifically refer to the Self-Build and Custom Housebuilding Act 2015. However, it was not disputed in the appeal that there were merits with the proposal in terms of the self-build approach and its contribution to the Council's housing shortfall.
8. The Council, as the decision maker, is entitled to decide what weight it attaches to material considerations. It is clear from its Officer Report and decision notice that it did determine the application on the basis of the so called 'tilted balance'. As can be seen in my decision, I have also found that the matters in favour of the scheme, do not justify permission in this particular case.
9. Having carefully considered the points raised, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, I determine that the costs application should fail, and no award is made.

Robert Walker

INSPECTOR