



Costs Decision

Site visit made on 6 July 2020

by Philip Lewis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2020

Costs application in relation to Appeal Ref: APP/E0915/W/20/3247551 Pennine View, Sandy Lane, Broadwath, Heads Nook CA8 9BQ

- 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 Carlisle City Council for a full award of costs against Dr Jennifer Deeble.
 - The appeal was against the refusal of planning permission Ref 19/0540, dated 8 July 2019, for the erection of replacement dwelling (revised application), without complying with a condition attached to planning permission Ref 17/0857 (APP/E0915/W/18/3201371), dated 11 April 2019.
-

Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. Paragraph 031 of the PPG states that unreasonable behaviour in the context of an application for an award of costs may be either procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
3. Paragraph 053 of the PPG provides examples of behaviour which may give rise to a substantive award against an appellant. These include an appeal following a recent appeal decision in respect of the same, or a very similar development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.
4. The Council contend that their appeal statement demonstrates that the condition to close the vehicular access has been a consistent requirement throughout both the decisions issued by the Council and by the Planning Inspectorate. Whilst the Council recognises that any applicant has the right to challenge a council's decision to refuse a planning application, the applicant has chosen to challenge this issue again, with the application being submitted less than five months after the Planning Inspector had issued his decision¹, which clearly recognises the need to close the access and imposed the disputed

¹ APP/E0915/W/18/3201371

condition. The Council contend that this demonstrates unreasonable behaviour which has resulted in the Council incurring unnecessary expense in this appeal.

5. Whilst the applicant had sought before to remove the condition relating to the permanent closure of the existing access to Farndale, which was the subject of a planning appeal dismissed² in December 2016, I am satisfied that the case made by the applicant regarding changing health circumstances is, on balance, sufficient to be considered as a material change in circumstances to which I have had regard in deciding the appeal. The latest appeal which imposed the disputed condition, concerned the retention of Farndale as an annex, rather than the removal of the condition relating to the access. Whilst the applicant did not convince me to remove the condition, I am nevertheless satisfied that unreasonable behaviour resulting in the Council incurring unnecessary expense in the appeal process has not been demonstrated. I am not therefore making a substantive award of costs on this basis.
6. To conclude, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

Philip Lewis

INSPECTOR

² APP/E0915/W/16/3160411