



Costs Decision

Hearing Held on 18 August 2020

Site visit made on 2 September 2020

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2020

Costs application in relation to Appeal Ref: APP/F2360/W/19/3242862 Southview, 72 Marsh Lane, Longton PR4 5ZL

- 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 Andrew McKerney for a full award of costs against South Ribble Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the erection of agricultural building for housing livestock, storage of livestock feed and small agricultural tools.
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Decision

1. The application for an award of costs is allowed, in the terms set out below.

The submissions for Mr Andrew McKerney

2. The costs applications were submitted in writing.
3. The appellant considers that the development has been prevented that should clearly be permitted having regard to its accordance with development plan and national planning policy. It has been indicated that the Council had failed in their duty to determine the application properly as issues identified in emails, in particular emails dated 7 June 2019 were not satisfactorily addressed prior to determining the application. The appellant considers there has been undue influence from neighbouring residents and Local Councillors in the determination of the application and process of planning committees. It has also been noted that the appellants application has been dealt with in a different manner to other similar planning applications.

The response by South Ribble Borough Council

4. The Council's response was made in writing.
5. The Council noted that their agricultural consultants did respond to comments made in the email dated 7 June 2019 however, this response was not publicly available due to an administrative error. The Council have also indicated that the conduct of Local Councillors and the planning committee was appropriate and the planning application was determined impartially.

Reasons

6. Paragraph 030 of 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.
7. Paragraph 049 of the PPG makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
 8. The Council reasons for refusal rely primarily on the “need” for the proposed development. As discussed in my appeal decision Policy G1 of the South Ribble Local Plan 2015 and the National Planning Policy Framework do not require the demonstration of “need” for agricultural buildings to be acceptable development. I also noted that, based on the evidence, it was clear that a need existed for the development anyway.
 9. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the proposal should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.
 10. The Council have accepted that some evidence was not made available publicly due to an administrative error. Whilst this error would have provided some frustration for the appellant, I do not consider this would have prevented the submission of an appeal.
 11. From the evidence before me, I do not consider that the conduct of Local Councillors or the planning committee to be unsatisfactory and the planning application was determined in an impartial manner.
 12. Notwithstanding the above, I do find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that an award of costs is justified.

Costs Order

13. 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 South Ribble Borough Council shall pay to Mr Andrew McKerney the costs of the appeal proceedings described in the heading of this decision.
14. The applicant is now invited to submit to the 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.

Chris Baxter

INSPECTOR