



Costs Decision

Site visit made on 9 September 2020

by I Jenkins BSc CEng MICE MCIWEM

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 08 October 2020

Costs application in relation to Appeal Ref: APP/F2360/W/19/3238776 Moss Farm, 25 Midge Hall Lane, Midge Hall, Leyland, PR26 6TN

- 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 Mrs Susan Snape for a full award of costs against South Ribble Borough Council.
 - The appeal was against the refusal of the Council to grant permission in principle on an application for the erection of one dwelling (specialist housing).
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Decision

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

Reasons

2. The appellant's costs application was submitted in writing, as was the Council's response.
3. The national *Planning Practice Guidance* (PPG) indicates that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Furthermore, awards against a local planning authority may be either procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal.
4. The appellant has indicated that, in summary, the main reasons for her costs application are: she considers that the application was approved by members at committee before they recanted their decision, due to partisan voting; the Council failed to follow well established case law and appeal decisions in relation to limited infilling; and, the Council cited a reason for refusal which should have been dealt with at the technical details consent stage, rather than the in principle stage. Against this background, the appellant considers that the appeal could have been avoided and the application is for a full award of costs.
5. The PPG indicates that although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
6. I note the appellant's view that voting on the planning application subject of this appeal at the associated Council Planning Committee meeting was unfairly affected by procedural irregularities. However, that is disputed by the Council. It indicates that whilst initial voting problems were caused by technical

difficulties, they were overcome by manual counting of individual votes. In any event, both parties have indicated that the most appropriate mechanism to resolve a claim of procedural irregularity would be by way of Judicial Review. I understand that such action has not been instigated by the appellant. In my view, this undetermined matter does not weigh in favour of an award of costs. As it stands, the Council decided that the application should be refused and gave its reasons for doing so, which are subject of this appeal. This behaviour was not unreasonable.

7. The appellant considers that the Planning Officer's report to committee failed to explain why, with reference to limited infilling within villages, the case law and appeal decisions set out on pages 9-13 of the supporting statement submitted with the planning application should not be followed. However, the Planning Officer's report acknowledged that the appeal site falls with the definition of previously developed land set out in the *National Planning Policy Framework* and that it is part of a small community with some community facilities which may loosely be termed a village. To my mind, it follows that the main area of dispute between the Council and appellant related to whether the scheme would amount to limited infilling. In relation to this matter, it appears to me that the case law and appeals referred to by the appellant on pages 9-13 are of little assistance, other than identifying that such matters are a question of planning judgement. The Council's approach, with reference to pages 9-13 of the appellant's supporting statement, did not amount to unreasonable behaviour.
8. In her costs application, the appellant has drawn particular attention to case law which indicated that once a development is determined as 'not inappropriate' the consideration of openness is no longer relevant. However, it appears to me that that judgement was of little relevance to the Council's determination, given its view that the proposed scheme would amount to inappropriate development. Whilst I disagree with that view, it is a matter of judgement and having reached that conclusion it was not unreasonable for the Council to then proceed to consider the likely impact on openness.
9. The Council's second reason for refusal indicates that it would not be possible to locate a single dwelling on the appeal site without causing a level of harm to the character and appearance of the area which would be contrary to Development Plan policy. Whilst I disagree with that view, it is also a matter of judgement and having reached that conclusion, I consider that it was not unreasonable for the Council to regard it as an in principle objection relating to location and amount of development and a legitimate reason for refusal at this stage.
10. The PPG indicates that the types of behaviour which may give rise to a substantive award against a local planning authority include, amongst other things, preventing or delaying development which should clearly be permitted, having regard to its accordance with the Development plan, national policy and other material considerations. In my appeal decision, I have concluded that permission in principle should be granted. Nonetheless, I am satisfied that the Council has provided evidence at appeal to substantiate the reasons why it chose to refuse permission, with reference to location, land use, amount of development and Development Plan policy. These are matters of judgement and, in my view, the evidence provided by the Council provides a respectable basis for its stance.

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

I Jenkins

INSPECTOR