



Costs Decision

Site visit made on 14 October 2020

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2020

Costs application in relation to Appeal Ref: APP/R2330/W/20/3255413 Red Walls Barn, Broadfield, Oswaldtwistle BB5 3SA

- 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 Mohammed A Khan for a full award of costs against Hyndburn Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for Change of use of barn to dwelling, including alterations to make habitable and erection of single storey extension without complying with a condition attached to planning permission Ref 11/15/0368, dated 8 December 2015.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 applicant considers that the Council behaved unreasonably because they failed to co-operate with him, did not respond to emails and gave assurances that they would answer queries and never did. The applicant also considers that the Council gave him information that was incorrect about the validation and unlawfully refused to validate the application. The applicant considers that the Council's behaviour resulted in unnecessary expense.
4. Although the Council failed to validate or issue a decision on the application, I consider that they were consistent, and as can be seen from my reasoning, correct, in their view that the nature of the amendment being sought to the planning permission exceeded what could be reasonably considered as a minor material amendment. On the matter of whether there was an extant planning permission, the legal status of this could not be confirmed in this process.
5. From the evidence before me, whilst it is clear the applicant disagrees with the Council's view, there is not substantive evidence that this amounts to a failure to co-operate or respond to queries or e-mails. I am provided with a document containing 14 e-mails between the applicant and the Council in which it was outlined very early in the process to the applicant that a full planning application would be required for the proposal and reasons why this was

considered to be the case. Such correspondences do not support the applicant's view that the Council failed to co-operate, respond to e-mails or answer queries.

6. Despite the lack of validation or a formal decision, the Council's response to the submission clearly demonstrates that it could not have resulted in the avoidance of the appeal. It follows that I am satisfied that the Council has shown that it was able to substantiate its findings.
7. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated. Therefore, the applicant's claim for costs fails.

A M Nilsson

INSPECTOR