The Planning Inspectorate

Costs Decision

Site visit made on 15 January 2021

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2021

Costs application in relation to Appeal Ref: APP/P2365/W/20/3261041
339 Blackgate lane, Tarleton PR4 6JJ

- 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 Peter Jackson for a partial award of costs against West Lancashire Borough Council.
- The appeal was against the refusal of planning permission for the demolition of existing buildings and erection of one detached dormer bungalow.

Decision

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

Reasons

2. The Planning Practice Guidance (the 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. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Parties in the appeal process are normally expected to meet their own expenses.

3. No reply was received from the Council in relation to the application for an award of costs, but, in refusing planning permission, the Council were cognisant of, and commented on the appeal decision at the nearby Riverside Caravan Park[1] and its relevance to the appeal scheme. The Council was entitled to consider whether the two schemes differed from one another, but in reaching their view that they did, the Council relied upon the application of the criteria which must be satisfied for the Exception Test to be passed.

4. The Exception Test was not a factor in the Council's decision or subsequent case at appeal. Notably, the Council recognised that the appeal site was previously developed land which was also the position established in the Riverside case. In short, the applicant says that the Council has repeated the same unreasonable approach relating to the application of the Sequential Test without considering proportionality or the making of an exception to policy in light of the Environment Agency's comments and those of the Council's Principal Engineer.

5. It seems to me that the Council has pursued a case about the need for a

[1] Appeal Decision Ref: APP/P2365/W/18/3214555

Sequential Test despite the findings of the Riverside decision being known and included as part of the applicant's submissions. There has been no explanation beyond that relating to the Exception Test why the Riverside case is different to the appeal scheme especially when the applicant outlined the similarities. Given this, the Council acted unreasonably.

6. However, for an award of costs to be granted the applicant needs to clearly show how any unreasonable behaviour has resulted in unnecessary or wasted expense. The applicant has not explained the effect of the Council's actions.

Conclusion

7. As both the cause and the effect need to be demonstrated, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Andrew McGlone

INSPECTOR