



Costs Decision

Hearing Held on 10 December 2020

Site visit made on 11 December 2020

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2021

Costs application in relation to Appeal Ref: APP/N2345/W/20/3247034 Adamson's Farm, Eaves Lane, Cuddy Hill, Woodplumpton, Preston PR4 0BP

- 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 Allan Peter Thornton for a full award of costs against Preston City Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the change of use from agricultural to residential land and the erection of a new farmhouse.
-

Decision:

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

The submissions for Mr Allan Peter Thornton

2. The costs application was submitted in writing during the hearing and presented orally.
3. The case officer initially supported the submitted application and questioned the Council's consultants ADAS whether there was insufficient justification. He changed his mind and the application was refused under delegated powers. It is therefore suggested that the Council was inconsistent. Additionally, some inappropriate assumptions were made on viability. There were also problems with the availability of submitted documents. Other cases have set a precedent and there is no consistency. The appeal was entirely unnecessary as it is suggested that ADAS misinterpreted the functional test, the viability test was met, and the dwelling would not be isolated but within the farmstead and on foundations of an earlier poultry unit. The appeal was unnecessary as the original application was supported by detail and should have been understood.

The response by Preston City Council

4. The response was submitted in writing and presented orally.
5. The case officer had limited experience in this type of case and the application was considered by due process. The information was shared. The other permitted cases were different and each case must be considered on its merits.

Reasons

6. 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.
7. Whilst the Council's case officer did initially support the planning application, it nonetheless had to be considered under the established Council's decision-making regime, which included an overview from the authorising officer. Such initial case officer views are widely acknowledged that they are not binding on the Council's decision and cannot be assumed to be so. It is also apparent that the Council's officer endeavoured to explore alternative proposals.
8. The Council determined the application on the basis of the established tests of the essential need and had due regard to the relevant planning policies.
9. Although there were some problems of attaining information, it was provided during the application process. Moreover, there was discussion between both the parties which led to considerations of the areas in dispute and prior to the decision being made all the relevant facts were known. Some assumptions were aired in the discourse of the application but were not fundamental in the determination based on essential need.
10. ADAS advised the Council that whilst the farm supported a full-time worker it was not essential to live on site: the Council properly considered the precise farm operation and the nature of the holding. The foundations of the poultry unit were not substantive as that building does not exist. Similarly, I have found in the main decision that permissions elsewhere are not wholly comparable.
11. The viability of the operation was only disputed by the Council in relation to the control of rented land and the operating accounts were accepted.

Conclusion

12. For the above reasons I conclude that the Council has not acted unreasonably, and that the applicant has not been put to wasted time and expense in pursuing the appeal. Therefore, an award of costs as described in the Planning Practice Guidance is not justified.

John Longmuir

INSPECTOR