
Costs Decision

Site visit made on 19 January 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2021

Costs application in relation to Appeal Ref: APP/P2365/W/20/3262570 Douglas Dale, 23 Bradshaw Lane, Parbold WN8 7NQ

- 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 Clarke for a full award of costs against West Lancashire Borough Council.
 - The appeal was against the refusal of planning permission for the removal of Condition No. 4 imposed on planning permission 2018/0923/FUL to allow reinstatement of permitted development rights.
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Decision

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

Reasons

2. 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.
3. The applicant considers the Council acted unreasonably because they did not engage constructively with their pre-application enquiries, they adopted a dismissive approach to the various proposals, they failed to respond to numerous correspondence resulting in the expense of chasing replies and they made conflicting assessments. This led to a second pre-application enquiry which was met with an equally dismissive response despite advice being taken from external planning consultants.
4. Conflicting justification was given for the planning condition imposed. Additional services have had to be obtained as a result of the planning process and overall the process has resulted in a delay in commencing works for the approved replacement dwelling. The Council has removed permitted development rights contrary to the advice of the National Planning Practice Guidance and they have changed their position on whether additional extensions would be supported, after the appeal was submitted.
5. An award of costs can only be made on the basis of expense that is incurred in the appeal process. In any event, on the basis of the correspondence with which I have been provided, the Council's responses were consistent in that they would be unlikely to support the removal of Condition 4. They are also detailed in their scope and do not adopt a dismissive approach, merely one that conflicts with the applicant's own views. Whilst the applicant is unhappy as to

the length of time that the responses took, that is a matter between the parties and one in which I cannot intervene.

6. In the circumstances of the case, I have found that the removal of the existing permitted development rights for outbuildings, swimming pools, means of enclosure, hardstandings and alterations was not reasonable or necessary in planning terms. However, the appeal could not have been avoided, due to the matter relating to extensions to the replacement dwelling. Therefore, the appellant has not incurred unnecessary or wasted expense in having to submit an appeal.
7. Furthermore, the Council has explained its position with respect to the removal of permitted development rights and, although different wording was given for the imposition of the condition compared to the reason for refusing to delete it, in essence it is clear from the reference to Policy GN1 of the West Lancashire Local Plan 2013 in both that matters relating to the Green Belt were key to the Council's reasoning.

Conclusion

8. Therefore, whilst I have found partly in favour of the applicant in my decision, unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and the application for costs fails.

Graham Wraight

INSPECTOR