
Costs Decision

Site visit made on 6 September 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2021

Costs application in relation to Appeal Ref: APP/R4408/X/21/3276280 4 Burton Crescent, Monk Bretton, Barnsley B71 2QD

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Cyril Barnett for a full award of costs against Barnsley Metropolitan Borough Council.
 - The appeal was against the refusal of a certificate of lawful use or development for erection of outbuilding to be used as a store, games area and hobby workshop.
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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. It is submitted that the behaviour and actions of the Local Planning Authority have resulted in the works being unnecessarily delayed which in turn has resulted in unnecessary expense and anxiety for the Appellant. In particular, the Appellant submits that the Council has: failed to justify why the works required planning permission or should be suspended; failed to engage with the Appellant regarding permitted development rights and carryout adequate site investigations; failed to assess new evidence in a fair and impartial way; and have taken into account site history which is not relevant. Furthermore, the Appellant believes the actions of the Local Planning Authority to be bias against him.
4. Unreasonable behaviour in the context of an award of costs may be either procedural, relating to the process; or substantive, relating to the issues arising from the merits of the appeal. PPG advises that awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission¹.
5. I appreciate that the Appellant is aggrieved by the way in which he considers the Council have handled matters relating to development at his property. However, those matters, which primarily relate to the way the Council has undertaken their enforcement investigations, are not for my consideration of

¹ Paragraph: 032 Reference ID: 16-032-20140306.

this appeal which is for a lawful development certificate (LDC) for a proposed development. Furthermore, I can only consider unreasonable behaviour and wasted expense incurred in this appeal, and not matters relating to previous applications and appeal decisions.

6. PPG makes it clear that the appellant is responsible for providing sufficient information with clarity and precision to support an application². The local planning authority then needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful³.
7. The Council undertook a site visit to clarify and understand the new material which accompanied the application. Furthermore, they set out clearly in the decision their reason for refusal and identified which part of the Town and Country Planning (General Permitted Development) (England) Order 2015 there was conflict with. They were entitled to take into consideration the findings of a recent appeal decision for a very similar development on the site which had not been challenged⁴, and relevant case law. In addition, they supported their decision with a written statement. The Council were also entitled to provide details of the site's planning history, including subsequent applications made by the appellant, if they considered that information would support their case.
8. It can be seen from my decision that I found the Council's decision to be well-founded and the appeal could not have been avoided. I therefore conclude unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated and an award of costs is not justified.

Elizabeth Pleasant

INSPECTOR

² Paragraph: 006 Reference ID: 17c-006-20140306.

³ Paragraph: 009 Reference ID: 17c-009-20140306.

⁴ APP/R4408/X/20/3255825.