
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 S71 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 Barnsley Metropolitan Borough Council for a full award of costs against Mr Cyril Barnett.
 - The appeal was against the refusal of a certificate of lawful use or development for the erection of an 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. The Council submit that the Appellant has acted unreasonably in pursuing an appeal which has no merit and seeks to challenge the findings of a previous Inspector's decision.
4. Paragraph 053¹ of the PPG advises that an appellant is at risk of an award of costs being made against them if the appeal had no reasonable prospect of succeeding. Examples include if an appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period.
5. The Appellant made an application for an LDC for a very similar development, albeit the roof of the outbuilding in that case was slightly lower in height and had a shallower pitch. The application was refused by the Council and dismissed on appeal in November 2020². Paragraph:005³ of the PPG advises that on any application without sufficient or precise information, a local planning authority may be justified in refusing a certificate. However, this

¹ Paragraph: 053 Reference ID: 16-053-20140306

² APP/R4408/X/20/3255825

³ Paragraph: 005 Reference ID 17c-005-20140306

paragraph further states that such a refusal does not preclude another application being submitted later on, if more information can be produced.

6. The circumstances of this case are that the pre-existing land levels adjacent to the walls of the proposed building had been altered prior to any of the applications for the LDC. Consequently, it is necessary for the Appellant to provide sufficient clear and precise evidence of those pre-existing levels to justify his case. The application the subject of this appeal included additional evidence that was not provided in his previous application/appeal and which the appellant considered would support his proposal. That evidence included additional photographs, third-party evidence and a site survey. In addition, the application was for a slightly different building than that which was the subject of the previous appeal.
7. Whilst it can be seen from my decision that the information provided was not sufficiently precise for me to determine that the Council's decision was not well-founded, it was not unreasonable for the appellant to submit a repeated application supported by additional information in an attempt to make out his case. The appeal in this case could not therefore be avoided.

Conclusion

8. 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