The Planning Inspectorate

Costs Decision

Site visit made on 9 November 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Costs application in relation to Appeal Ref: APP/B2355/W/21/3277504
Windy Bank Barn, Burnley Road East, Rossendale, BB4 9NH

- 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 Ms Holly Stott for a partial award of costs against the decision of Rossendale Borough Council.
- The appeal was against the refusal of the Council to grant planning permission in principle for the change of use and conversion of stables to a dwelling

Decision

1. The application for a partial award of costs is allowed in the terms set out below.

Preliminary Matter

2. The Council did not respond to this application for costs.

Reasons

3. The Planning Practice Guidance (the PPG) sets out that parties in planning appeals are expected to behave reasonably. It goes on to say that where a party has behaved unreasonably, and that unreasonable behaviour has caused unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. The PPG sets out examples of behaviour which may give rise to an award of costs against the Council.

4. Against those examples, the applicant claims that the Council acted unreasonably by determining the application on the basis of a matter which was not before it, namely, character and appearance. This is not at issue in stage 1 of the permission in principle process.

5. Notwithstanding my conclusions on the main issues and the appeal proposal overall, there is nothing before me, nor any reason to consider, that development proposals on the site could not be made acceptable with regard to its character and appearance.

6. The criteria for an application for an award of costs has two limbs. Firstly, a party must behave unreasonably. It is clear that the Council has done so in this case by determining the application on the basis of a matter which was not before it. The second limb of the test is that that unreasonable behaviour has caused unnecessary or wasted expense in the appeal process. Although not extensive or lengthy, the applicant has nonetheless addressed this element of the Council's decision, and this part of the appeal process was unnecessary. I therefore consider that this represents unnecessary or wasted expense in the appeal process.

Conclusion

7. As a result, I find that the Council has demonstrated behaviour, in relation to the reason for refusal concerning character and appearance which could be considered unreasonable in the terms of the PPG, and which then resulted in unnecessary or wasted expense.

8. The application for a partial award of costs should therefore be allowed.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Rossendale Borough Council shall pay to Ms Holly Stott, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in arguing against the Council's decision that the proposal would harm the character and appearance of the area.

10. The applicant is now invited to submit to the Rossendale Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S Dean

INSPECTOR