
Costs Decision

Site visit made on 17 January 2022

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2022

Costs application in relation to Appeal Ref: APP/N4720/W/21/3282141 Hillside, 40 Church Lane, Bardsey, Leeds LS17 9DR

- 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 Leeds City Council for a full award of costs against Mr P Bamford.
 - The appeal was against the refusal of planning permission for an extension to existing residential dwelling (see application drawings and accompanying Design and Access Statement).
-

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. In summary, the applicant contends that the respondents' case in respect of Green Belt matters is so at odds with the relevant policy positions, and the arguments pursued so spurious and fundamentally flawed, that it is clear that they have acted unreasonably in pursuing the appeal. Furthermore, these matters go to the heart of the wider planning balance. The respondent has pivoted their position from that at application stage, has alluded to case law without presenting any in support and has alluded to there being support for their arguments at application stage when this is clearly not the case. The alternative 'very special circumstances' case is also clearly without merit in the context of Green Belt policy.
4. The respondent states that the applicant is predetermining the consideration of the appeal and that their position has rightfully pivoted in response to the reason for refusal. They were led to understand that the proposed development was acceptable and supported during the application period and therefore the applicant themselves pivoted to a refusal. A reasonable and justified full statement of case against the reasons for refusal of planning permission has been presented. The Officer report was not clear with respect to its reference to engineering operations and the interpretation of this is reasonable and the applicant did offer support for the proposal. The merits of the very special circumstances are subject to assessment by the Inspector.

5. The applicant's references to engineering operations within their Officer Report are unclear and, based on the information provided with the appeal, they did suggest prior to the determination of the planning application that the proposal would be looked upon favourably. Nonetheless, the formal decision of the Council was to refuse planning permission and the argument that the respondent put forward in their Statement of Case with respect to whether the proposal is inappropriate development in the Green Belt or not is unconventional and overall lacking in conviction. It was further not substantiated by reference to any relevant supporting evidence or case law. Crucially however, this relates to only the first stage of the consideration of the proposal.
6. Having established that the proposed development is inappropriate development in the Green Belt, it was then necessary to determine whether there are other considerations which could amount to the very special circumstances that would be needed to justify its approval. In this respect, the respondent's case outlines a number of other considerations which in their view support the appeal. These other considerations are well explained and relate to both the appeal proposal and to planning matters in general. Ultimately, the weight given to these considerations is a matter for the decision maker. Whilst I have not found in favour of the respondent on this matter, this does not mean that they acted unreasonably in submitting and pursuing the appeal in order that their case in this respect could be considered.
7. In conclusion, it was reasonable for the respondent to have pursued the appeal on the basis that they considered there to be very special circumstances applicable to the case. Whilst the applicant did have to defend all aspects of the appeal including that relating to whether the proposal was inappropriate development or not, this did not involve complex arguments or the commissioning of technical reports. Taken as a whole therefore, the appeal was not unreasonably made and the applicant has not incurred unnecessary or wasted expense in the appeal process. Consequently, the tests for an award of costs are not met and the application must fail.

Graham Wraight

INSPECTOR