
Costs Decision

Site visit made on 22 February 2022

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 13th April 2022

Costs application in relation to Appeal Ref: APP/M2372/D/21/3280829 Lower Paddock Farm, Belthorn Road, Blackburn, BB1 2NN

- 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 John McGeachie for an award of costs against Blackburn with Darwen Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for a domestic garage and office.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only 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 behaved unreasonably by acting contrary to, or not following, well-established case law, thereby preventing or delaying development which should clearly be permitted. He also considers that the Council ignored his evidence in relation to the volume increase.
4. The Council did not refer to the particular case law¹ in determining the planning application. However, the case law relates solely to the replacement of several existing buildings with a single building in the Green Belt. It does not appear directly relevant to the appeal proposal, which would be the replacement of a single building where there are other buildings in the same curtilage.
5. The Council did not ignore the applicant's evidence, but it considered that the applicant's volume increase calculation was not relevant to the proposal. The proposal would not be an extension to the dwelling nor would it be the replacement of a group of buildings that included the dwelling. For this reason, the volume of the original dwelling did not have a bearing on whether or not the proposal would be materially larger than the building it would replace.
6. I find that the Council did not act unreasonably by failing to mention and by not following case law that was not directly relevant to the proposal. It was also not unreasonable of it to disagree with, and then disregard, the applicant's

¹ Tandridge v SCLG and Syrett [2015] EWHC 2503

volume calculation when this took into account buildings that were excluded from the proposal.

7. I understand that the Council's decision will have been a disappointment to the applicant. In this regard, the appeal provided the opportunity to test the reason for refusal. As can be seen from my appeal decision, I also found that the case law did not provide a justification for the proposal and that the volume of the existing dwelling was not relevant for the purposes of the particular Green Belt policies. I dismissed the appeal. Therefore, it does not follow that that the Council's refusal to grant permission prevented or delayed development which should clearly have been permitted, having regard to the development plan, national policy and material considerations.
8. The applicant will have incurred expense in the appeal process, but the parties are expected to meet their own costs in the appeal. In this case, it has not been demonstrated that the Council behaved unreasonably or that this resulted in unnecessary or wasted expense in the appeal process.
9. For this reason, I conclude that an award of costs is not justified.

Sarah Manchester

INSPECTOR