



Costs Decision

Site visit made on 29 June 2022

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 08 July 2022

Costs application in relation to Appeal Ref: APP/E2340/C/22/3294708 The Bungalow, Dam Head Farm, Blacko Bar Road, Roughlee, Lancashire BB9 6NX

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Pendle Borough Council for a full award of costs against Mr Reid Nutter.
 - The appeal was against an enforcement notice alleging the erection of a building.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. The aim of the costs regime is to encourage all parties involved in the appeal process to act reasonably, including in terms of presenting full and detailed evidence to support their case.
3. An application for costs will need to demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense in the appeal process. The PPG advises on the particular circumstances where an award of costs may be appropriate, including where a development is clearly not in accordance with the development plan, and no other material considerations are advanced that indicate that the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
4. The Council contends that the appeal has been advanced on ground(a) only and the development alleged in the Notice is wholly inappropriate as it is of poor design that is unjustified in the Area of Outstanding Natural Beauty (AONB). Therefore, the Council argues that the development is contrary to the provisions of the development plan and there are no other material considerations that would lead to the development being allowed.
5. In this case, the appellant has provided very little evidence in support of his appeal. He has briefly stated that the structure is to be used to store a vintage tractor and mower and that it is well in-keeping with agricultural needs. The enforcement notice tells him what he has done wrong, why it is in breach of planning control in terms of the development plan and the National Planning

Policy Framework. However, he has clearly failed to address why the requirements of the development plan are met and, moreover, there is inadequate evidence to support the contention that the building meets agricultural needs. The development is clearly not in accordance with the development plan and the Framework as set out in the main decision and there is inadequate evidence to support the appellant's rather weak argument that the building meets agricultural needs. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

7. 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 Mr Reid Nutter shall pay to Pendle Borough Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Mr Reid Nutter, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A A Phillips

INSPECTOR