



Costs Decision

Site visit made on 4 January 2023

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2023

Costs application in relation to Appeal Ref: APP/E/2340/D/22/3308493 Monkholme Lodge, Robinson Lane, Brierfield, Lancashire BB9 5QS

- 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 Pendle Borough Council for a full award of costs against Mr S Choudrey.
 - The appeal was against the refusal of planning permission for erection of first floor and single storey ground floor extensions.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) explains how costs may be awarded against a party who has behaved unreasonably, and thereby directly caused another party to incur unnecessary expense at appeal.
3. Appellants are required to behave reasonably in relation to procedural matters on the appeal, for example by complying with the requirements and deadlines of the appeals process. Examples in the PPG¹ of unreasonable behaviour which may result in an award of costs include resistance to, or lack of co-operation with the other party in providing information or discussing the application or appeal. The Council has provided evidence that the appellant's agent refused to provide a volume calculation to aid with the determination of the application.
4. The email sent by the agent in response to the request, does not provide such a calculation and indicates that there is no policy requirement to provide this. As the agent responded and gave reasons why he did not wish to supply the volume calculation, I am satisfied that this does not amount to resistance to, or a lack of co-operation with the Council.
5. Furthermore, it appears that the agent replied to the two emails sent by the Council. These included reasons why the agent considered that the extension was not inappropriate development. Whilst it may have been in the appellant's interest to provide a volume calculation, I note that the Council were able to calculate their own figure which has not been disputed by the appellant.

¹ Paragraph: 052 Reference ID: 16-052-20140306

6. In addition to the above, and in accordance with the PPG², an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. This may occur when, for example, the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise.
7. Referencing part of the above section of the PPG, the Council alleges that given that the extensions proposed were clearly disproportionate, the appeal had no reasonable prospect of success, as it is far removed from prevailing planning policy. It adds that processing it has incurred unnecessary time and expense for the Council.
8. I agreed with the Council in concluding that the extension was disproportionate to the original dwelling. However, the appellant put forward an argument that the proposal would not be disproportionate as the *'proposed works are within the envelope of the existing building and are over an existing building'*. Whilst I concluded differently this, to my mind, is not an illogical approach to assessing whether an extension is disproportionate. Indeed, the appellant's statement correctly notes that the Framework does not define disproportionate and that this a matter of planning judgement.
9. With regard to openness, the appellant, argues that the *'resultant mass of the building is comparable to nearby existing buildings and houses'*. Again, whilst I concluded differently on this matter, it is not unreasonable of the appellant to advance this argument with regard to openness in support of their appeal. I therefore do not consider that it would have been clear to the appellant that an appeal on these grounds would have no reasonable prospect of succeeding.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Martinson

INSPECTOR

² Paragraph: 053 Reference ID: 16-053-20140306