



Costs Decision

Site visit made on 24 August 2023

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Costs application in relation to Appeal Ref: APP/T2350/W/22/3313432 Water Tank and Valve House off Vicarage Lane, Wilpshire BB1 9HY

- 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 Turner for a full award of costs against Ribble Valley Borough Council.
 - The appeal was against the refusal of an application for conversion of redundant water tower and valve house to create a single dwelling to include the creation of a short length of access track.
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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. Examples of unreasonable behaviour that may lead to an award of costs are given in the PPG and may concern the Council preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The applicant's case is that the Council failed to take into account all relevant material considerations in determining the planning application, namely an earlier appeal decision from 1998 (T/APP/T2350/A/98/295099/P2). It is accepted that the previous decision of the Inspector is capable of being a material consideration. The scope of what can constitute a material consideration is very wide. However, whether the Council have behaved unreasonably in not taking it into account will depend on the facts and circumstances.
4. I note that the 'Relevant Planning History' section of the Council's Delegated Report only refers to a Prior Notification for an agricultural track (of 2021) and not to the 1998 appeal decision. That in itself does not to my mind suggest that the decision was not taken into account; it was referred to, and relied upon, throughout the applicant's Planning Statement so the Officer would have been aware of it. The Council's evidence in respect of the appeal refers to the previous appeal decision being 'historic' (it is some 25 years old) and explains

that it was determined under the remit of the Ribble Valley District Wide Local Plan (since superseded by the Ribble Valley Core Strategy in 2014) and pre-dates the publication of the National Planning Policy Framework in 2012. The Council's position is, therefore, that the decision is '*no longer fundamentally material to the assessment of the current appeal.*' It is evident that the appeal decision has been taken into account, but a judgement was made as to the weight it should be afforded.

5. The weight, if any, to be given to a particular consideration is a matter for the decision maker's discretion. Therefore, whilst unhelpful that the Council's position was not explained in the Delegated Report, I do not find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

R. Jones

INSPECTOR