



Costs Decision

Site visit made on 13 May 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Costs application in relation to Appeal Ref: APP/T2350/W/23/3334523 Healings Farm, West Bradford Road, Waddington, Lancashire BB7 3JE

- 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 Ashley Rostron for a full award of costs against Ribble Valley Borough Council.
 - The appeal was against the refusal to grant prior approval for demolition of existing workshop building and replacement with one new two-storey dwelling with basement, including landscaped gardens, access and parking.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. The applicant's cost claim is on the grounds that the Council acted unreasonably by considering the proposal as a planning application rather than a prior approval application. The applicant considers this is evidenced by the Council's reason for refusal on the decision notice referring to Policy DMG1 of the Ribble Valley Core Strategy¹ (2014) (CS).
4. Furthermore, the applicant states that concerns raised by the Council in relation to the footprint of the building, its siting and its cubic volume are not matters for consideration as part of the prior approval application. The applicant therefore claims that the refusal of the application and the resultant appeal has resulted in unnecessary expense and delay.
5. As detailed within my appeal decision, there is no statutory obligation to decide a prior approval application on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004 as the principle of the development is established through the grant of permission by the Town and Country Planning (General Permitted Development Order) Order 2015 (as amended) (GPDO). As such, the provisions of Part 20, Class ZA of the GPDO do not require regard to be had to the development plan.
6. Nevertheless, that does not mean that the development plan policies cannot still be relevant in prior approval applications, but only insofar as they relate to the relevant matters, and only as evidence to support, rather than being the basis of, the planning judgement to be made.

¹ Ribble Valley Borough Council Core Strategy 2008-2028 - A Local Plan for Ribble Valley - Adoption Version (2014)

7. The Council's reason for refusal refers to the provisions of Paragraph ZA.2 within Schedule 2, Part 20, Class ZA of the GPDO and the National Planning Policy Framework (the Framework), as well as Policy DMG1 of the CS. The inclusion of Policy DMG1 alongside the references to Paragraph ZA.2 and the Framework is not definitive evidence that this policy was the basis of the Council's main planning judgement in the determination of the application, as it was referenced to support their planning judgement. Consequently, the reference to the policy does not indicate that the Council has gone beyond its legal authority and considered the proposal as a planning application.
8. Furthermore, the references to Paragraph ZA.2 and the Framework in the Council's reason for refusal demonstrate that the Council did not solely determine the application based on Policy DMG1 of the CS. As such, even without any reference to Policy DMG1 of the CS, it is reasonable to conclude that the Council would have refused the application based on its assessment against Paragraph ZA.2 and the Framework. Therefore, the appeal could not have been avoided. Consequently, the inclusion of Policy DMG1 of the CS in the Council's decision has not resulted in any unnecessary expense or delay.
9. In reaching this view I have had due regard to the appeal decision², and associated cost decision, provided by the appellant, as well as the appeal decisions provided by the Council³. I note that these each take varying approaches to the relevance of the development plan in relation to prior approval applications. However, for the reasons detailed above and in my appeal decision, I have concluded that development plan policies can be relevant in the determination of prior approval appeals. Therefore, the Council's reference to Policy DMG1 of the CS does not constitute unreasonable behaviour.
10. With regard to the Council's concerns in respect of the footprint of the building, its siting and its volume, the Council's submissions clearly set out their justification for the reason for refusal. The Council has substantiated their concerns by explaining that these matters all relate to their overall concerns with the design and external appearance of the proposed dwelling and how it relates to its surroundings.
11. In allowing the appeal I have reached a different conclusion to the Council on these matters. Even so, it was not unreasonable of the Council to take these matters into consideration as part of their assessment of the design of the proposed dwelling.

Conclusion

12. Given all of the above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R Major

INSPECTOR

² APP/M5450/W/22/3292680

³ APP/T2350/W/23/3325434 and APP/X1119/W/20/3260797