



Costs Decision

Site visit made on 17 September 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2024

Costs application in relation to Appeal Ref: APP/P2365/W/24/3341690 Elm Farm Equestrian, Elm Farm Nurseries, Butchers Lane, Aughton, Lancashire L39 6SY

- 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 and Mrs Richard and Angela Derby for a full award of costs against West Lancashire Borough Council.
 - The appeal was against the refusal of planning permission for demolition of 3 former stables and the redevelopment of the existing equestrian site to form a single residential two storey dwelling with a detached single storey ancillary building to form a home gym.
-

Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. It is an accepted principle that parties in planning appeals normally meet their own expenses. The applicants seek costs against the Council on a number of grounds.
3. Firstly, it is the applicants' contention that the Council should have requested up to date ecology and arboricultural reports during the planning application process, which would have avoided the third and fourth reasons for refusal and the need for these matters to be dealt with at the appeal stage.
4. The Council says that if these updated documents had been requested in the knowledge that the application was going to be refused, then this would have resulted in the applicants incurring unnecessary fees, and points out that the onus was on the applicants to provide all relevant supporting documents having regard to the validation checklist and pre-application advice service.
5. The submission of the updated reports during the planning application would not have avoided the appeal, and I accept that it is the applicants' responsibility to provide any documentation deemed necessary to validate the application. However, had the Council required any additional information to properly assess the proposal and resolve potential reasons for refusal, then it should have communicated this to the appellants and given them the

- opportunity to respond. To refuse the application on the grounds of a failure to provide up to date information that had not previously been requested was unreasonable, especially given the length of time between the application submission and decision dates.
6. The applicants did not incur unnecessary expense in providing the updated reports with the appeal since they would have been required at some stage. However, they were put to unnecessary and wasted expense by having to address these reasons for refusal through the appeal.
 7. The second element of the applicants' claim relates to the incorrect reference in the case officer's report to the previous appeal scheme as comprising a conversion rather than a new build development. While this error is unfortunate, I have little evidence that this affected the outcome of the application. The report identifies the harm that the Council considered the scheme would cause and on grounds that in my view were well-founded. Moreover, the relevant decisions section of the report correctly identifies the description of the previous application as the demolition of former stables and construction of a detached dwelling on the footprint of the former stable building. Consequently, I am not persuaded that this error led to the applicants being put to unnecessary or wasted expense.
 8. Thirdly, the applicants refer to the Council's failure to provide the appeal questionnaire and supporting documents in accordance with the appeal timetable. Having regard to the content of the questionnaire and supporting documents, I have no reason to find that the appellants were disadvantaged by its late receipt or that it caused them to incur unnecessary or wasted expense in the appeal process.
 9. In conclusion, I find that in relation to the third and fourth reasons for refusal, unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG, has been demonstrated, and that therefore a partial award of costs is justified.

Costs Order

10. In the 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 West Lancashire Borough Council shall pay to Mr and Mrs Richard and Angela Derby, the costs of appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the third and fourth reasons for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicants are now invited to submit to West Lancashire Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Ollerenshaw

INSPECTOR