



Costs Decision

Site visit made on 5 November 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2024

Costs application in relation to Appeal Ref: APP/P2365/W/24/3344045 Ladys View, Ladys Walk, Westhead, Ormskirk L40 6HX

- 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 Neil Macfarlane for a full award of costs against West Lancashire Borough Council.
- The application Ref 2024/0156/FUL was approved on 23 April 2024 and planning permission was granted subject to conditions.
- The development permitted is demolition of outbuilding (the shippon) and erection of a detached dwelling.
- The condition in dispute is No 7 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and/or re-enacting that Order) the following forms of development within the provisions of Part 1 to Schedule 2 of the Order shall not be undertaken without the express permission in writing of the council:
 - 1. extension or enlargement; and
 - 2. detached outbuildings.
- The reason given for the condition is: The further extension or alteration of this dwelling or erection of detached buildings requires detailed consideration to safeguard the openness of the Green Belt and the setting of the listed building and to comply with the provisions of Policy GN1(b) of the West Lancashire Local Plan 2012-2027 and the National Planning Policy Framework - Protecting Green Belt Land and Policy EN4 of the adopted West Lancashire Local Plan 2012-2027.

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 PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters, such as providing information that is shown to be manifestly untrue or inaccurate, or deliberately concealing relevant evidence. It also includes substantive matters, such as 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, or failure to provide evidence to substantiate the reasons for refusal.
4. The application for costs relates to the alleged failure of the council to consider if the conditions were reasonable and necessary, did not substantiate how

additional extensions or outbuildings would have an effect on the Green Belt or the setting of a listed building and did not give any weight to allowed appeals.

5. Planning and appeal decisions are a material factor in the determination of planning applications. However, cases must also be considered on their own merits and precedents are not set as a result of previous decisions as each site and proposal has its own characteristics and features. The weight given to previous decisions is a matter for the decision maker in the planning application process. I note that the Council did not discuss the appeal decisions put forward by the appellant in their application.
6. However, whilst the appeal decision letters have been provided, the information in the appeals cited is incomplete. The absence of evidence such as the plans contained within those appeals cited, does not allow for an assessment to be made. Therefore, there is no evidence available to explain that the scheme is directly comparable. Furthermore, there is also no guarantee that the setting of the listed building in the decisions cited, is the same as the listed building in this appeal, given the limited information provided.
7. The Council have provided a reason as to why they believe it was necessary and reasonable to impose the condition in question and why developments such as extensions or outbuildings could have an unacceptable effect. The PPG notes that a local planning authority can remove permitted development rights by means of condition. The Council in their assessment of the original proposal considered that this was appropriate in the context of the Green Belt and the listed building. This is a matter of planning judgement.
8. Whilst all parties may not agree on the outcome of the planning application, I consider that the Council has considered the application based on the evidence before it and exercised its power to impose this permitted development right restriction. Whilst I have taken a different view, the evidence does not lead me to conclude that the Council has acted unreasonably.
9. To conclude, I am not persuaded that the local authority acted unreasonably in the substantive matters raised above. As such, unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs on this issue is not justified.
10. For this reason and taking into account all other matters raised, the application for costs is refused.

J Smith

INSPECTOR