



Costs Decision

Site visit made on 5 March 2025

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2025

Costs application in relation to Appeal Ref: APP/A2335/W/24/3357058 Bridge End Farm, Brookhouse Road, Brookhouse, LA2 9NW

- 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 P Kershaw for a full award of costs against Lancaster City Council.
 - The appeal was against the refusal of planning permission for refurbishment of existing farmhouse, demolition of existing extensions and erection of a replacement single storey rear extension, conversion of outbuildings to annexe, conversion of existing barn to single dwelling, erection of two new dwellings to the land to the south and one new dwelling to land to the north.
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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 pre-application and application process as well as the appeal have taken a long time. Therefore, it is not surprising that relevant considerations have changed during this period. These include an updated Strategic Flood Risk Assessment and flood maps from the Environment Agency, a Development Plan Document in response to climate change, a revised National Planning Policy Framework and relevant appeal decisions. Whilst understandably frustrating for the applicant, it was perfectly reasonable for the local planning authority to take account of the latest information in reaching its decision and in taking its stance during the appeal, including its reference to groundwater flooding.
4. It would obviously have been better if the response to the sequential test could have been made earlier but it was not unduly tardy. By continuing to comment on other aspects of the proposal, whilst having reservations about the sequential test, the applicant was given the best chance of obtaining permission. The history of the Planning Advice Note relating to the undertaking of a sequential test is curious and an explanation of the Council's actions would have been helpful. The timing of the amendment of the Note and its subsequent withdrawal was unfortunate for the applicant but nothing more than that.
5. There was an oversight in not putting comments from the Council's Engineers about flood risk on the public file. This meant that the applicant was unaware of them at the time. Whilst errors of this nature can easily happen, it would have been preferable for the applicant to have had an opportunity to respond. However, the

observations made were consistent with earlier ones and, in all likelihood, the inability of the applicant to reply made no difference to the way that the application was decided.

6. Therefore, unreasonable behaviour resulting in unnecessary expense has not occurred and an award of costs is not justified.

David Smith

INSPECTOR