



Costs Decision

Site visit made on 4 May 2021

by Sarah Manchester BSc MSc PhD MEnvSc

An Inspector appointed by the Secretary of State

Decision date: 7th June 2021

Costs application in relation to Appeal Ref: APP/M2325/W/21/3266902 Barnfield Farm, Back Lane, Weeton with Preese, Preston, Lancashire PR4 3HS

- 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 Ms K Ixler for a full award of costs against Fylde Borough Council.
 - The appeal was against the refusal of planning permission for change of use of land for the siting of six holiday lodges, one warden's lodge and six touring pitches together with creation of new fishing lake and landscaping.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and the unreasonable behaviour has caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant is seeking to recover costs incurred in the appeal. This is based on alleged unreasonable behaviour by the Council including: vague, generalised or inaccurate assertions about the proposed warden's lodge, which are unsupported or refused on a ground capable of being dealt with by condition; and the failure to provide the landscape consultee comments during the processing of the application meant that the applicant was unable to address the concerns prior to determination or to narrow down the issues in the appeal.
4. The warden's lodge would provide for the main activities of daily domestic existence and it could therefore function as a dwelling. Although it would be used as a reception and administrative hub, it would be occupied for an unspecified number of nights. Given its size and design, and the uncertainty surrounding the range of specific circumstances and the frequency of its overnight occupation, it was not unreasonable of the Council to assess it against policies relating to residential development in the countryside.
5. Taking account of the inherent uncertainties, the Council was not satisfied that this was a matter that could be adequately controlled by condition. While the appellant disputes this, no form of wording of a condition that would pass the relevant tests set out in Paragraph 55 of the Framework was proposed. On this basis, there is little substantive evidence that the Council refused the application on grounds that could have been dealt with by condition.

6. The Council did not provide the applicant with the comments of the Landscape and Urban Design Team on the planning application. However, substantially the same comments had been provided at the pre-application stage and the subsequent comments were in any case reported in the officer's report. Therefore, even if it was unreasonable of the Council not to publish the Landscape Team comments during the processing of the application, the applicant was aware of the specific issues and concerns both when the application was submitted and when the appeal was made. On this basis, I am not convinced that the appeal could have been avoided or that the issues to be considered in the appeal would have been narrowed any further.
7. The parties are expected to meet their own costs in the appeal process. While the decision of the Council will undoubtedly have been a disappointment to the applicant, the appeal provided the opportunity to test the reasons for refusal. The Council has substantiated its reasons for refusal on appeal, with reference to the development plan policies. As can be seen from my appeal decision, I also found harm and conflict with the development plan and I dismissed the appeal accordingly. It therefore follows that permission was not unjustifiably withheld and the Council's decision did not prevent or delay development that should clearly have been permitted.

Conclusion

8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and a partial award of costs is not justified.

Sarah Manchester

INSPECTOR