



Costs Decision

Site visit made on 19 December 2019

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Costs application in relation to Appeal Ref: APP/M2325/W/19/3237770 Land to the rear of 91 Ribby Road, Wrea Green, Preston PR4 2PA

- 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 Andrew Bradshaw for a full award of costs against Fylde Borough Council.
 - The appeal was against the refusal of planning permission for the erection of six self-build homes, landscaping and all other associated works.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 sets out examples of behaviour by local planning authorities which may give rise to an award of costs¹. The applicant asserts that in this case, the following are relevant: i) vague generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; ii) refusing planning permission on a planning ground capable of being dealt with by conditions; iii) not determining similar cases in a consistent manner and iv) requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy.
4. The applicant contends that the Council failed to provide qualitative or quantitative evidence to support the sixth reason for refusal, which relates to the relationship between the proposed house on plot 1 and a neighbouring property on Langton Close. However, I have found that the evidence provided in the Council's statement was sufficient to explain the reasoning behind the reason for refusal. Further detailed analysis was not necessary to enable a judgement to be made on the effect of the proposal on the neighbouring property. I do not consider that the Council have behaved unreasonably with regard to point i).
5. Turning to point ii), the planning statement suggests that section 73 applications and/or non-material amendments would provide a way for prospective owners to alter the design or layout of the houses at a later date.

¹ PPG Paragraph: 049 Reference ID: 16-049-20140306

However, this alone would not provide any guarantee that the houses would be constructed as self-build units, or that they would be subsequently occupied by those who built them. The Council were of the opinion that this matter could not be adequately addressed using a planning condition, and I agree.

6. The applicants say that there was no opportunity to discuss a suitable mechanism to ensure that the proposed dwellings would be constructed as self-build dwellings, which could have avoided the fifth reason for refusal. A draft Unilateral Undertaking (UU) was submitted during the appeal process to address this issue. I agree that if the UU had been provided earlier then the fifth reason for refusal could have been avoided. However, this would not have removed the need for an appeal, as the application was refused for other reasons.
7. In relation to point iii), the applicants suggest that the Council has taken an inconsistent approach in defining infill development and cite the example of residential development at Beech Road, Elswick² to support their case. The Beech Road example is not the same as the current appeal, however, and the Council has provided an adequate explanation as to why they have treated the two sites differently. For the reasons set out in the appeal decision, I consider their approach in relation to the appeal site to be justified.
8. Point iv) relates to the Council's requirement that provision be made for affordable housing. As set out in the appeal decision, I have found that the site forms part of a wider development and, although the proposed development is for self-build units, some provision for affordable housing would be justified in this case. In coming to this conclusion, I have had regard to the guidance in section 5 of the National Planning Policy Framework. As such, I consider the Council's approach to be appropriate and the inclusion of the third reason for refusal justified.
9. I conclude that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award of costs is not justified and the application for costs is refused.

Rosie Morgan

INSPECTOR

² Planning application ref 18/0461