



Costs Decision

Site visit made on 23 April 2013

by Nicholas Taylor BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 May 2013

**Costs application in relation to Appeal Ref: APP/T2350/A/13/2190947
Site of former stables, Trapp Lane, Simonstone, Lancashire BB12 7QW**

- 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 Phil Snaith and Mr Larry Shaw for a full award of costs against Ribble Valley Borough Council.
 - The appeal was against the refusal of planning permission to demolish existing stable block and erect 2 no. 2 storey 4 bedroom detached houses and garage block.
-

Decision

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

Reasons

2. The costs application refers, at one point, to Fylde Borough Council but I have taken this to be a simple error and disregarded it.
3. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only 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.
4. Paragraph B8 of the circular provides that allegations of mishandling of the application or pre-application discussions may be indicators of unreasonable behaviour by the planning authority. However, it continues: the purpose of a costs application process is not to resolve by investigation every allegation of unreasonable behaviour. Rather, it is to decide whether or not an award of costs in respect of the appeal is justified on the available evidence in a particular case. Furthermore, paragraph B9 provides that a local planning authority's procedures are a matter for itself, in the context of local accountability.
5. The Council issued written pre-application advice to the appellants in April 2012. I agree with the appellants that, in relation to the District's housing land supply situation and assessment of whether the site is isolated, in the context of paragraph 55 of the National Planning Policy Framework, the letter could be interpreted as providing some encouragement to the proposal in principle. However, it did qualify its stance by the use of terms such as "arguable" and "could be acceptable" and stated clear reservations about design. It also made clear that the advice was from an officer, was subject to the usual caveats and did not bind the Council.

6. I accept that, over the intervening period of six months until the subsequent application was determined, the Council's interpretation of the new Framework and the overall policy context may, reasonably, have evolved, for instance in the light of appeal decisions. Consequently, the fact that the Council reached different conclusions in making its formal decision on the application, notwithstanding that the decision was delegated to an officer, does not, in itself, amount to unreasonable behaviour.
7. The appellants disagree with the Council's stance on housing land supply as set out in its decision report on their application. The evidence before me indicates that the Council's interpretation of housing land supply continued to evolve after the application was determined. An appeal decision, referred to by the appellant (APP/T2350/A/12/2176977 concerning land at Barrow Brook), post-dated the Council's decision on the current scheme. It led to a report on the calculation of housing land supply by the Council's Chief Executive in January 2013. The Council subsequently acknowledged, in its statement on the current appeal, that it could not demonstrate a five year housing land supply. Therefore, that was not an issue in contention in the current appeal.
8. The appellants point out that the Inspector in the Barrow Brook case recorded that "parties agree policies G4 and G5 [of the *Ribble Valley Districtwide Local Plan*] are out of date..." and argue that, as a result, the Council should not have relied on Policy G5 or the related Policy H2. But, except in as much that they both concerned residential development, there are very significant differences between the Barrow Brook and current appeals. The Council, in its first reason for refusal, referred to the Framework as well as Policies G1, G5 and H2. In my decision, I concluded that those policies were, in the context of the current appeal, consistent with the Framework. Moreover, the Council was clear that its first reason for refusal was based on the proposal's impact on sustainability and the countryside, rather than the adequacy or otherwise of the housing land supply. Consequently, the Council was not inconsistent in accepting the conclusions of the Barrow Brook Inspector with regard to housing land supply, whilst applying Policies G5 and H2 to the current appeal, and it did not, with regard to paragraph B29 of the circular, behave unreasonably by failing to determine like cases in a like manner.
9. The Council also cited two further reasons for refusal. It referred to appropriate policies and, in its appeal statement, substantiated its reasons for refusal. Accordingly, in those terms, the appeal was not unnecessary and the appellants were not put to unnecessary expense.
10. Overall, therefore, I find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

Nicholas Taylor

INSPECTOR