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## Costs Decision

Site visit made on 25 August 2015

by **Matthew Birkinshaw BA(Hons) Msc MRTPI**

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

Decision date: 19<sup>th</sup> November 2015

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**Costs application in relation to Appeal Ref: APP/T2350/W/15/3128758  
Little Dudlands Farm, Rimmington Lane, Rimmington, Clitheroe, BB7 4EA**

- 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 John Lund for a full award of costs against Ribble Valley Borough Council.
  - The appeal was against the refusal of planning permission for the conversion of barns to two dwellings with garages, creation of garden areas, replacement garage for farmhouse and installation of package treatment plant.
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### Decision

1. The application for an award of costs is allowed in part in the terms set out below.

### Reasons

2. The National Planning Practice Guidance states that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Examples of behaviour that may give rise to an award of costs against a local planning authority includes 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. Other examples include the failure to produce evidence to substantiate each reason for refusal on appeal, and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
3. The application is made on the grounds that the Council erroneously applied *Ribble Valley Borough Council Core Strategy* Policies concerning dwellings in the countryside and barn conversions. The applicant asserts that if the Council had correctly applied the relevant policies it would have been possible to overcome the design concerns. It is also suggested that appeal decision APP/T2350/A/14/2225334, dated 26 January 2015, was not taken into account which established the correct policy position regarding barn conversions.
4. Core Strategy Policy DMH3 permits the conversion of buildings in the countryside where they are suitably located. In refusing permission the Council reasoned why the proposal conflicted with the development strategy for the area by reason of its location and distance to services. Policy DMG3 also requires considerable weight to be given to the need for development to be located in accessible areas. Despite finding in favour of the applicant, the Council's position was therefore substantiated in the Planning Officer's report.



5. However, appeal decision Ref APP/T2350/A/14/2225334, dated 26 January 2015, was issued during the determination of the proposal and is not referred to in the Council's assessment. This decision stated that whilst the dwellings would be some distance from services and facilities, *"...the barn building is not isolated in the landscape but rather, taken together with the existing farmhouse, forms part of an already group of buildings as required to be permitted by Core Strategy policy DMH4 which deals specifically with the conversion of barns to dwellings."*
6. Furthermore, in concluding the Inspector reaffirmed that *"...notwithstanding that the conversion of the barns into two dwellings in this location would be acceptable in principle, it would not be justified by virtue of the effect of the proposed scheme of conversion/alterations on the existing building and its setting..."*. The decision therefore clearly established that the principle of development was acceptable for the purposes of the Core Strategy, despite its rural location. There is nothing in the evidence before me to indicate that this material consideration was taken into account at either the planning application or appeal stages.
7. In their defence the Council maintains that it was mindful of the Inspector's decision, that there are insufficient parallels to be drawn between the two schemes and that each case must be considered on its merits. I also appreciate that a single appeal decision does not necessarily dictate how recently adopted Core Strategy policies should be applied. Nevertheless, no reference is made to the decision in the Council's written submissions. Given that the issues in both cases surrounded the principle of development it was necessary and appropriate for the Council to consider its findings in their assessment of the scheme at Little Dudlands Farm. Based on the information provided this was not carried out at any stage.
8. Linked to the principle of development is the Council's third reason for refusal. This states that the scheme would set a harmful precedent for the acceptance of other similar 'unjustified' proposals which would adversely affect the development strategy for the area. However, no further information has been provided at the appeal stage to substantiate this reason for refusal. Moreover, the Council accepts that each case must be considered on its own merits, a point also made by the Inspector at Sheepfold Farm in finding the principle of a barn conversion acceptable against the development strategy for the area.
9. Thus, in the absence of any evidence to suggest that the previous Inspector's decision was different, the Council has failed to take into account a material consideration of significant importance. It has also failed to produce sufficient evidence to substantiate each reason for refusal on appeal. Because the issues in reasons for refusal 1 and 3 related to the principle of barn conversions in rural areas, which was specifically addressed by the Sheepfold Farm case, I consider that the failure to take its findings into account amounts to the unreasonable behaviour cited by the National Planning Practice Guidance.
10. In seeking a full award of costs it has been suggested that the Council should have approached the applicant after a further appeal decision was issued concerning barn conversions (Ref APP/T2350/W/15/3006322, dated 18 June 2015). The applicant asserts that this would have enabled matters of design and appearance to be resolved. However, no convincing case has been made to indicate that an appropriate design could have been achieved. The Council



had also expressed their concerns at the pre-application stage. Whether or not a party should have re-opened dialogue after planning permission had been refused, this has not led to any wasted costs or expense in connection with the appeal scheme, which is the basis upon which I can consider the application.

11. I therefore conclude that by failing to adequately consider and clearly take into account a relevant material consideration regarding the principle of development, and failing to substantiate each reason for refusal on appeal, unreasonable behaviour resulting in unnecessary expense as described in the National Planning Practice Guidance has been demonstrated. However, this only relates to the principle of development and the location of the site, and not matters of design and appearance. Only a partial award of costs is therefore justified for the applicant having to address the Council's first and third reasons for refusal.

### **Costs Order**

12. In exercise of the powers under Section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act as amended, and all other powers in that behalf, IT IS HEREBY ORDERED that Ribble Valley Borough Council shall pay to Mr John Lund the costs of the appeal proceedings in so far as they relate to the Council's first and third reasons for refusal, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
13. The applicant is now invited to submit to Ribble Valley Borough Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

***Matthew Birkinshaw***

INSPECTOR