Annex to Appeal Statement – Costs Application Healings Farm, Waddington

An application for costs is made against Ribble Valley Borough Council as part of the refusal of prior approval application (3/2023/0687) for 'prior approval (Class ZA) demolition of building and construction of a dwelling house at Healings Farm'.

The sole reason for refusal stated on the decision notice is as follows:

1. *The proposed dwelling would be two-storeys and visible from various public vantage points. It would result in an incongruous, unsympathetic and conspicuous addition to the application site and wider open countryside that would be harmful to the visual amenities of the area. The proposal would be in conflict with Paragraph 130 of the NPPF and Policy DMG1 of the Ribble Valley Core Strategy. As such, the proposed development has been considered against the provisions of Class ZA.2 paragraphs (d) and (e) relating to matters of design and external appearance of the building and prior approval is refused.*

This costs application should be read in accordance with the detailed appeal statement to which it is annexed.

National Planning Practice Guidance includes guidance[1] on the award of costs against appeal parties.

The applicant is concerned that notwithstanding the submission of a detailed prior approval application and payment of an application fee, the application they have submitted has not received a proper assessment by the local planning authority (LPA) in accordance with the approved legislation.

The applicant does therefore feel it is appropriate to submit a costs application in this instance.

Paragraph: 049 Reference ID: 16-049-20140306 of the government's planning practice guidance considers *'What type of behaviour may give rise to a substantive award against a local planning authority?'*.

This includes a non-exhaustive list of fourteen bullet points that could give rise to an award of costs against the local authority. Examples of unreasonable behaviour by local planning authorities which includes delay in providing information or other failure to adhere to deadlines[2]; preventing or delaying development which should have clearly been permitted, having regard to its accordance with the development plan, national policy and other considerations and making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis[3].

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[1] https://www.gov.uk/guidance/appeals#behaviour-that-may-lead-to-an-award-of-costs-against-appeal-parties
[2] Paragraph: 047 Reference ID: 16-047-20140306
[3] Paragraph: 049 Reference ID: 16-049-20140306

In this case, we consider that the council have gone beyond their legal authority in consideration of the appeal by treating the proposals as a planning application rather than an application for prior approval.

Paragraph B(15) of Part 20, Class ZA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) requires a LPA to take into account any representations made to them as a result of consultation, and to have regard to the National Planning Policy Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application. There is no provision for a LPA to take into account the development plan.

During the course of the application, we provided the council with details of a similar case which was allowed at appeal and costs awarded (APP/M5450/W/22/3292680 – decisions submitted as Appendix A and B to this appeal respectively) for guidance on how a Class ZA application should be assessed by local authorities. Correspondence (details of which are also submitted with this appeal) confirms that these were received but disregarded by the council.

In refusing the application, it is clear that the council have considered the proposal against the policies in the development plan – referencing Policy DMG1 of the Core Strategy in the reason for refusal – and against the duty set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004.

The PPG makes clear that the statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications and are a light-touch process. In the context of the prior approval legislation, the council has erred in their assessment by considering the application against the development plan. In light of this, we consider that the council have acted unreasonably.

For the above reasons is it considered that an award of costs against the LPA is justified in this instance.