
Costs Decision

Site visit made on 5 January 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 17 March 2017

**Costs application in relation to Appeal Ref: APP/P4415/W/16/3159809
The Mill, Norwood Lock, Rotherham Road, Killamarsh, South Yorkshire S21
2DS**

- 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 Rotherham Metropolitan Borough Council for a full award of costs against Mr Jeremy White.
 - The appeal was against the refusal of an application for planning permission for the retention of existing building to be used for 8 No stables, covered yard and tack room and formation of associated car parking spaces. Solar panels to roof.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 expense in the appeal process.
 3. It also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded.
 4. The Council consider that the appellant has acted unreasonably in submitting the planning application and subsequent appeal referenced above. They seek a substantive award of costs as the proposals were not materially different from a building tested previously at appeal. The only changes were to materials, alterations of openings and the solar panels to the roof. In this context, I note the examples of the types of behaviour that PPG considers unreasonable as set out by paragraph 053.
 5. Between the two schemes, there was no change in the siting or size of the building. Nevertheless, and since the dismissal of the previous scheme, the Council granted a planning permission for the erection of a stable building elsewhere locally, where they attached weight to the inclusion of solar panels, as very special circumstances, to justify its height/angle of roof. This other
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building was also in the Green belt. I accept that each development proposal is considered on its own merits but in my view the appellant was entitled to request that the Council consider whether the addition of solar panels, amongst other things, may justify their own building. The appropriate vehicle to test this was the submission of a fresh application which, in the event of a refusal, there is a right to appeal.

6. It is for this reason that I do not consider the appellant's conduct has amounted to unreasonable behaviour. Unnecessary expense during the appeal process has not been demonstrated and as such an award of costs is not justified.

John Morrison

INSPECTOR