



Costs Decision

Site visit made on 26 June 2019

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2019

Costs application in relation to Appeal Ref: APP/A4710/W/19/3226322 Farfield House, Ingham Lane, Bradshaw, Halifax HX2 9PE

- 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 S Robertshaw for a [partial] [full] award of costs against Calderdale Metropolitan Borough Council.
 - The appeal was against the refusal of the Council to grant subject to conditions of planning permission for the redevelopment of a previously developed site.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that 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. Examples of unreasonable behaviour of the local planning authority include not determining similar cases in a consistent manner and where the Council has prevented development which should have been permitted.
3. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The main thrust of the Applicant's case is that the Council has failed to have regard to the potential fall-back position and failed to determine planning applications in a consistent manner.
5. The Applicant considers that this behaviour has led them to incur unnecessary delay and expense in having to appeal the refusal when planning permission should have been granted.
6. The Council, in their Officer's report, have not provided any detailed commentary with regards the fallback position that the Appellant detailed in their submission. However, the Council did have reference to the considerable planning history of the site and adjacent properties and in their appeal statement, the Council state that they did have reference to the relevant planning permission and fall-back position.

7. While the reference to the planning history of the site in the Officer's report is very brief, I do not conclude that this amounts to unreasonable behaviour resulting in unnecessary expense in relation to the appeal.
8. The Appellant has also referred to a separate planning application for a dwelling, where the Appellant asserts that the Council adopted a contradictory position with regards the implementation of the planning permission relating to the fall-back position. I have not been provided with all of the details of the second planning application referred to and, in any event, it appears that the decision referred to was made after the decision subject of this appeal.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Mark Brooker

INSPECTOR