

Costs Decision

Site visit made on 6 August 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2019

Costs application in relation to Appeal Ref: APP/C2708/W/19/3229554 Fairmount, Starkey Lane, Farnhill, Keighley BD20 9AW

- 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 Elliot Exley for a full award of costs against Craven District Council.
 - The appeal was against the refusal of planning permission for the demolition of Fairmount and the construction of three properties all with off street parking.
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Decision

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

Procedural Matter

2. For clarity, I have taken both the name of the applicant and the address of the site from the appeal form.

Reasons

3. The Planning Practice Guidance (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.
4. Paragraph 049 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include: 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; failures 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.
5. The applicant submits that the Council has acted unreasonably as Members of the planning committee were accurately advised by Council Officers that the development accorded with both local and national planning policy and this was further demonstrated through the lack of reference in the reason for refusal to any local plan or national planning policies. Additionally, the applicant asserts that the reason for refusal given by the Council is inaccurate in that it contradicts with the analysis of the Council's Officers.
6. In this case I have noted the recommendation of the Council's Officer. However, the decision is one of a matter of judgement and the Council

Members in this case were entitled not to accept the professional advice of Officers as long as a case could be made by them for the contrary view.

7. Notwithstanding the recommendation from the Officer, the Council's reason for refusal set out in the decision notice is complete, specific and relevant to the application. Whilst no specific policies are cited on the decision notice, I consider that the wording of the reason for refusal does not represent unreasonable behaviour.
8. The Council further supported their reason for refusal with a full statement of case. The statement expanded on the reason for refusal, identified the issues and described the reasons why the Council considered the proposed development would conflict with the existing character and appearance of Farnhill Conservation Area, representing overdevelopment of the site. Additionally, the concerns in relation to the living conditions of existing occupiers were adequately substantiated.
9. It will be seen from my decision that overall, I agree with the Council's refusal. However, the decision was a matter of judgement based on the evidence before the Council. From the evidence before me, and in the absence of any additional information to the contrary, it follows that I am satisfied that the Council adequately substantiated its reason for refusal. In this case the appeal could not therefore have been avoided.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated. As such, an award of costs is not justified.

W Johnson

INSPECTOR