



Costs Decision

Site visit made on 23 September 2019

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Costs application in relation to Appeal Ref: APP/Z4718/D/19/3232787 Hogley Farm, Hogley Lane, Holmfirth HD9 2QA

- 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 and Mrs A and R Hogley for a full award of costs against Kirklees Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for replacement of existing stable block with proposed single storey detached games room.
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Decision

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

Reasons

2. 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.
3. The applicants say the appeal was only necessary because the planning committee went against officer advice to approve the planning application. Whilst the Council's case officer recommended approval of the planning application they were not the ultimate decision maker as recommendations are not binding upon the Council until the point at which a formal decision is issued. It does not necessarily follow that a Council officer's recommendation would be the ultimate decision of the Council. As such, there should not have been any expectation that planning permission would be granted.
4. The applicants say that officers failed to make reference to relevant caselaw which led to Members making an unreasonable decision. However, irrespective of any discussion on the matter at the committee meeting, the officer's report did refer to caselaw and the 3 tests identified by the applicants, even if specific reference was not made to the case referenced by the applicants.
5. In its final decision the Council was of the view that the application should be refused. It is a decision with which I do not concur. However, in the Decision Notice the Council provided reasoning for the refusal of the application and reference was made to relevant development plan policies to substantiate their decision. They therefore explained why they thought the decision was justified.

Conclusion

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

K Ford

INSPECTOR