
Costs Decision

Site visit made on 19 May 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2020

Costs application in relation to Appeal Ref: APP/N4720/W/20/3244315 P Garnett and Son Ltd, Wharfeside Paper Mills, Mill Lane, Otley LS21 1QJ

- 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 Barratt and David Wilson Homes Yorkshire West for a full award of costs against Leeds City Council.
 - The appeal was against the refusal to grant consent to details required by condition 54 of planning permission 08/02079/OT granted on 4 July 2008.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) states that parties in appeals normally meet their own expenses. The PPG also 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 or wasted expense in the appeal process. For an application for costs to succeed, an applicant will need to demonstrate clearly how any alleged unreasonable behaviour has also resulted in unnecessary or wasted expense.
3. The applicant is seeking to recover costs on the grounds that the Council acted unreasonably because evidence at the application stage demonstrated that permission should have been permitted. Further, the Council acted unreasonably by failing to provide evidence to substantiate the reason for refusal. Preparation and submission of the appeal has delayed the implementation of the scheme.
4. The evidence submitted with the appeal indicates that the Council's concerns about the measures proposed to manage traffic through the site was the subject of discussion between the parties prior to the Council's decision being issued. While I concur with the applicant that the measures proposed would adequately meet the requirements of condition 54, it appears that the Council did engage with the applicant to resolve their concerns prior to refusing the submitted details. In light of this, I am satisfied that the Council did communicate meaningfully with the applicant and it is not clear to me that the appeal could necessarily have been avoided.
5. Further, the Council did provide a Statement of Case to substantiate the reason for refusal, including a policy context. The Council's statement sets out why it considers the submitted details should not be approved. Overall, I am satisfied

that the Council did explain its reason for refusal in its appeal statement even though I do not agree with their conclusions.

6. I appreciate that the applicant considers that the appeal delayed the implementation of the scheme. However, I note that the condition was a prior to commencement condition attached to a permission granted in 2008¹. The evidence before me of the reasons for the delay in applying to discharge the condition are not apparent. Consequently, I cannot conclude that the delay in implementing measures to manage traffic through the site was due to the Council refusing to discharge the details submitted to satisfy condition 54 of the 2008 planning permission.
7. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and the application for costs is refused.

Diane Cragg

INSPECTOR

¹ 08/02079/OT decided 4 July 2008