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## Costs Decision

Site visit made on 25 June 2020

**by C Dillon BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 July 2020**

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### **Costs application in relation to Appeal Ref: APP/N4720/D/20/3251677 10, Church Lane, Tingley, Wakefield WF3 1BQ**

- 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 Auty for a full award of costs against Leeds City Council.
  - The appeal was against the refusal of planning permission for a two storey rear extension to existing dwelling.
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### **Decision**

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

### **The submission by Mr Auty**

2. The applicant submits that the Council's grounds for refusal are unreasonable, having been made without demonstrating that evidence submitted which advanced the existence of very special circumstances had been considered, with specific reference to a fallback position. The applicant considers that this led to an unsubstantiated decision which, in turn, resulted in an unnecessary appeal submission and associated costs being incurred.

### **The response by Leeds City Council**

3. The Council has maintained that the proposal failed to accord with the development plan and resulted in an unacceptable level of harm to the Leeds Green Belt, having applied weight to the various considerations relevant the application.
4. In their rebuttal, the Council has stated that the Permitted Development scheme was substantially different to the appeal proposal and would create greater levels of harm to the Green Belt and, as such it was not considered to be a reasonable alternative which warranted substantive assessment. The Council has also advised that it was not reasonably convinced that the Permitted Development scheme was a genuine fallback or that it amounted to very special circumstances. The Council has maintained that it has acted reasonably and that the tests set out in the Planning Practice Guidance (PPG) relating to costs have not been met.

### **Reasons**

5. From the evidence before me and my site inspection, I have found that the proposal would represent inappropriate development that would impose harm to the Green Belt and that harm would not be clearly out-weighted by any

- 'other considerations' so as to amount to very special circumstances. In arriving at that conclusion, and contrary to the Council's opinion, I found that the Permitted Development scheme which the appellant had advanced to the Council during the course of the planning application has a real prospect of taking place. That being the case, I found that it warranted substantive assessment to conclude whether very special circumstances existed that would clearly out-weigh the identified harm to justify the appeal proposal.
6. Notwithstanding the actual merits of the fallback position, the Officer Report was silent on that matter. Furthermore, the Council's rebuttal confirms that such an assessment was not undertaken. Consequently, in the absence of the required clarity that such a reference would have provided, it is evident that in arriving at its decision, the Council did not clearly demonstrate that it had given sufficient regard to the fallback position as part of its assessment of 'other considerations'.
  7. I conducted that assessment. However, contrary to the appellant's view, I concluded that very special circumstances did not exist for the reasons set out in the appeal decision. Therefore, irrespective of the Council's behaviour, the outcome for the applicant has remained unchanged. Furthermore, based upon the evidence before me, there is nothing that would indicate that the Council would have arrived at a different decision had the necessary assessment been undertaken, particularly given that the Framework advises the decision maker to attribute substantial weight to harm to the Green Belt.

### **Conclusion**

8. For the reasons given above, I find that unreasonable behaviour from the Council on substantive grounds, as described in the Planning Practice Guidance (PPG), is evident. However, in this particular instance, as the appeal would have been necessary even if the Council's assessment had been reasonable, that behaviour did not cause unnecessary expense in terms of the preparation and submission of the relevant appeal.
9. As only one of the relevant two tests set out in the PPG in respect to the determination of cost applications has been met, I conclude that an award for costs is not justified.

*C Dillon*

INSPECTOR