
Costs Decision

Site visit made on 19 May 2021

by B.S.Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2021

Costs application in relation to Appeal Ref: APP/Z4718/C/21/3268920 Woodleigh, Vicarage Road, Savile Town, Dewsbury, WF12 9PD

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Kirklees Metropolitan Borough Council for a full award of costs against Mr Ayub Patel.
 - The appeal was against an enforcement notice alleging the erection of a single storey extension to an outbuilding.
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Decision

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

Reasons

2. The Council submits that the recent appeal decision (Ref: APP/Z4718/W/20/3254836) of 14 December 2020, which found the present development to be unacceptable, indicates that the appeal on ground (a) has no reasonable prospect of success; it does not present any new information that was not before the previous Inspector.
3. The Planning Practice Guidance 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. The appellant raised two new matters which were not before the previous Inspector, a unilateral obligation regarding the boundary hedge and the existence of planning permission (Ref: 2020/91622) for a very substantial extension to the outbuilding, only some 2m smaller than the development subject to the notice.
5. To my mind, the above two matters were of significant weight and altered the context in which the planning merits of the development had to be considered. It was not unreasonable for the appellant to pursue an appeal in this context. Accordingly, the application does not succeed.

B.S.Rogers

Inspector