



---

## Costs Decision

Site visit made on 17 August 2021

**by F Wilkinson BSc (Hons), MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14<sup>th</sup> September 2021**

---

### **Costs application in relation to Appeal Ref: APP/E2734/W/21/3275123 Birthwaite House, Birthwaite Lane, Ripley HG3 3JQ**

- 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 Harrogate Borough Council for a full award of costs against Mr and Mrs M Hilton.
  - The appeal was against the refusal of planning permission for a new four-bed detached house.
- 

### **Decision**

1. The application for a full 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 therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The reason for the costs application is the unnecessary and wasted expense in terms of officer time in dealing with a further appeal for this site when it has been made clear through previous appeals that it was not considered to be a sustainable location and would undermine the Council's growth strategy.
4. The PPG advises that an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. Examples given include where the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where it was decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period.
5. The appellants state that the appeal site is different, the proposed development has a completely different form, and the grounds of appeal are different.
6. The proposed location within the garden of Birthwaite House is the same as the previously dismissed proposals although its siting within this area has changed.
7. The location of the proposed dwelling within the garden of Birthwaite House lies outside of the defined development limits of a settlement. This location was considered by the Inspector for the previous two schemes<sup>1</sup> who concluded that

---

<sup>1</sup> Appeal references APP/E2734/W/19/3230255 and APP/E2734/W/19/3239059

it would significantly conflict with what was the emerging Policy GS3 and would be at odds with the Council's emerging spatial strategy. The Inspector clarified that this would be the case even if no harm was found in relation to character and appearance and noting the fact that both developments would significantly exceed the current requirements for new dwellings in respect of energy use, an argument put forward in support of the current appeal scheme.

8. The Local Plan<sup>2</sup> was adopted after the appeal decision on the previous two proposals was issued, although it appears that the development strategy set out in Policy GS3 of the adopted Local Plan has not altered to a material extent from the emerging version considered by the previous Inspector.
9. This appeal scheme does have a different design and is located further from the trees covered by the Tree Preservation Order than the previous two appeal proposals. In addition, the appellants question the status of the Council's five year housing land supply, although this has been clarified through the Council's statement of case that includes a reference to its Housing Land Supply Update of April 2021. The appellants may have considered that these matters could have been sufficient to alter the planning balance.
10. I acknowledge the Council's dissatisfaction with the appellants submission of previously dismissed proposals. Whilst the general location of the proposal has not changed, there are a number of matters that have, and the appellants have not behaved unreasonably in pursuing these.

### **Conclusion**

11. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*F Wilkinson*

INSPECTOR

---

<sup>2</sup> Harrogate District Local Plan 2014 – 2035, adopted March 2020