



Costs Decision

Site visit made on 14 September 2021

by F Wilkinson BSC (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Costs application in relation to Appeal Ref: APP/Z4718/W/21/3272918 Land adjacent to 2 Lightenfield Lane, Netherton, Huddersfield HD4 7WJ

- 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 Field View Homes Yorkshire Ltd for a full award of costs against Kirklees Council.
 - The appeal was against the refusal of planning permission for the erection of a detached dwelling.
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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 therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In summary, the applicant claims that the Council has acted unreasonably by:
 - not giving an indication during negotiations on the application that the proposed development would be unacceptable;
 - basing the decision on a subjective assessment of effects rather than on the development plan or the National Planning Policy Framework (the Framework); and
 - failing to substantiate the reasons for refusal through objective analysis and instead repeating reasons for refusal for previous schemes.
4. The Council disputes that it has acted unreasonably.
5. The Council submitted a copy of email correspondence dated October 2020, which was during the period of considering the planning application. This states that the Council's officer considered the proposed development to be unacceptable and would be recommending refusal. The email correspondence also sets out the reasons for this position. The Council did therefore give an indication that the proposed development would be unacceptable prior to its final determination of the application.
6. I am satisfied that the Council's officer report does consider the differences between the proposed development and the previous schemes in terms of its siting and design. It also sets out why the scheme would still be unacceptable

despite the modifications made to its siting and design. These reasons are based on the relevant policies of the development plan, which is different to the development plan in place when the previous schemes were considered, and the Framework.

7. The reasons for refusal set out in the Council's decision notice are precise, specific and relevant to the application. They also clearly state the policy of the Kirklees Local Plan Strategies and Policies (the LP) that the proposed development would conflict with. These reasons have been substantiated in the Council's officer report, which also clearly sets out the consideration of the application against other relevant LP policies and sections of the Framework, and the planning balance. There was therefore sufficient evidence in the officer report and the reasons for refusal for the applicant to be clear on the Council's main concerns.
8. The PPG states that where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. I find that this is the position with this case.
9. 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