

Costs Decision

Site visit made on 28 October 2021

by Mr M Brooker DipTP MRTPI

appointed by the Secretary of State for Communities and Local Government

Decision date: 30 November 2021

Costs application in relation to Appeal Ref: APP/N1350/D/21/3283717 Mulberry House, 21C Roundhill Road, Hurworth DL2 2ED

- 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 Tim Jones for a full award of costs against Darlington Borough Council.
 - The appeal was against the refusal of planning permission for the construction of a detached garage within domestic curtilage
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Decision

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

Reasons

2. 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.
3. It is the applicant's case that the Council behaved unreasonably in refusing to grant planning permission where there is "no evidence that the development will give rise to flood risk elsewhere or within the site", in the context of granting planning permission for housing nearby including the appeal property where permitted development rights for works that could alter the flow of surface water were not removed.
4. It is clear from the evidence submitted in support of the appeal that, as acknowledged by the appellants own Flood Risk Assessment, the site is in an area at risk of surface water flooding and that the proposed development would result in the diversion of surface water around the proposed garage.
5. While the earlier consent for housing on the appeal and adjacent sites is a material consideration, because the land upon which the proposed development would be constructed did not form part of that approval, I am satisfied that the existence of such a permission and the conditions attached to it are not determinative in this instance and it was reasonable for the Council to consider the issues around surface water flows in respect of the appeal scheme.
6. I note the appellant's appellants comments in respect of the works that could be carried out under permitted development rights and that these may affect surface water flows. While such matters may be relevant to the consideration of the appeal, they are not determinative and do not mean that the Council acted unreasonably in respect of the appeal scheme.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Mr M Brooker

INSPECTOR