



Costs Decision

Site visit made on 1 February 2022

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2022

**Costs application in relation to Appeal Ref: APP/E2734/C/21/3286466
The land situate and known as Juleroyd House, Skipton Road, Kettlesing,
Harrogate, North Yorkshire HG3 2LT**

- 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 Harrogate Borough Council for a partial award of costs against Mr Mark Trickett.
 - The appeal was against an enforcement notice alleging the unauthorised material change of use of the land to a mixed use for (i) residential; (ii) agricultural; and (iii) the use for the storage and hire of motorhomes.
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Decision

1. The application for a partial award of costs is allowed in the terms set out below.

The submissions for Harrogate Borough Council

2. The partial award of costs is sought in respect of the appeal on ground (f).
3. The appeal is unnecessary and has required the Council to revisit matters that had been decided in its decision to refuse a planning application¹ using the same access to Skipton Road, and in a subsequent appeal² against that decision. There was late submission of evidence regarding belated progress on securing adjacent land to implement an extant planning permission³ for a building to store motorhomes and an alternative egress to Skipton Road.
4. The appeal on ground (f) is baseless as it does not set out lesser steps that would resolve the breach of planning control but instead proposes a second alternative egress that cannot be considered without an appeal on ground (a) and which the local highway authority has already advised is unacceptable.

The response by Mr Mark Trickett

5. Efforts were made to find a suitable means of egress and pre-application advice had been sought from the Council. However, the notice was issued before that advice was forthcoming, leaving limited options to progress the issues.

¹ 19/01625/COU, refused 29 May 2019

² APP/E2734/W/19/3239796. Dismissed 10 February 2020

³ 20/02262/FUL, granted 9 November 2020

6. The proposal granted planning permission had been progressed in good faith but negotiation with the landowner had proved difficult owing to an asking price far higher than the land's agricultural value.

Reasons

7. The Planning Practice Guidance (the PPG) advises that costs may be awarded if a party has behaved unreasonably, and so has directly caused another party to incur unnecessary or wasted expense in the appeal process.
8. The alternative egress to the east is outside the scope of the appeal, for the reasons stated in the Appeal Decision. It therefore cannot constitute a lesser step that would resolve the breach of planning control. As such, there was never any prospect of success in the appeal on ground (f) and unreasonable behaviour has been demonstrated. However, the Council had already considered this egress through its paid pre-application advice service, so it did not need to undertake new work to be able to respond on the planning issues. Consequently, while some unnecessary or wasted expense will have been incurred in the appeal, it is unlikely to have been more than minimal.

Conclusion

9. For the reasons set out above I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Mark Trickett shall pay to Harrogate Borough Council the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the appeal on ground (f); such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Mr Mark Trickett, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Mark Harbottle

INSPECTOR