



Costs Decision

Site visit made on 1 November 2022

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Costs application in relation to Appeal Ref: APP/E2734/W/22/3306998 Prospect Cottages, Park House Green, Harrogate, North Yorkshire HG1 3HW

- 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 S Zia for a partial award of costs against Harrogate Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing two dwellings and erection of three dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. The applicant states that the Council behaved unreasonably in referring to Policy NE4 of the Harrogate District Local Plan, March 2020 (LP) in the first reason for refusal and as a result this has put the applicant to unnecessary expense in addressing the policy.
4. Policy NE4 of the LP relates to landscape character and seeks to ensure proposals protect, enhance or restore the landscape character of Harrogate district. A number of criteria are set out as indicators of how this would be achieved. The policy then refers to Locally Valued Landscapes. Other than forming part of a list of relevant policies, Policy NE4 was not referred to within the Council's officer report. The Council therefore failed to substantiate the reasons why the proposed development was contrary to Policy NE4.
5. From their comments defending the appeal, the Council refer to criterion E of Policy NE4 and state that an appraisal of the existing landscape character was made in the officer report, which also referenced residential grain, layout and external appearance. However, it is not the function of a planning appeal to evaluate the justification for a particular development plan policy, this should form part of the Council's reasoning in refusing the proposal. In any event, these considerations relate more specifically to Policy HP3 of the LP, which is also referred to in the first reason for refusal.
6. The relevance of Policy NE4 to the assessment of the proposal is a matter of judgement rather than a black and white issue. Nonetheless, an ordinary

reading of Policy NE4 is that it is one of wider landscape consideration, irrelevant to the scale and location of the proposed scheme, particularly as Policy HP3 covered all the relevant matters.

7. I find the Council incorrectly included Policy NE4 in the reason for refusal and even when included, the Council did not provide an objective analysis to justify why the proposal was considered to conflict with Policy NE4. Whilst the Council did substantiate the first reason for refusal in relation to Policy HP3 and the applicant would still have been required to defend the reason for refusal against this policy, I find the Council behaved unreasonably in referencing Policy NE4 and thereby caused the party applying for the costs to incur unnecessary expense in the appeal process.

Costs Order

8. 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 Harrogate Borough Council shall pay to Mr S Zia, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in dealing with Policy NE4 from the date the appeal was made. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Harrogate Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Veevers

INSPECTOR