



Costs Decision

Site visit made on 28 February 2023

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 May 2023

Costs application in relation to Appeal Ref: APP/P3040/W/22/3311191 Oliver's Yard, New Road, Barton in Fabis NG11 0AE

- 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 John Arthur Kent for a full award of costs against Rushcliffe Borough Council.
 - The application Ref 22/00379/FUL, dated 23 February 2022, was refused by notice dated 16 May 2022.
 - The appeal was against a refusal to grant planning permission for the proposed development described as "the replacement of wall and roof materials with new cladding and blockwork; and the change of use of the building from agricultural to light industrial (use class E(g)(iii))."
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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. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantive matters (i.e. issues related to the planning merits of the appeal).
4. Essentially the applicant is seeking a full award of costs due to the Council's alleged unreasonable behaviour. The applicant considers that the Council behaved unreasonably in denying approval of the application. The applicant feels this caused them unnecessary and/or wasted expense.
5. The applicant states in paragraph 2.1 of their application for costs that the Council did not cite any local development plan policies in their reason for refusal. However, the Council did make reference to the relevant local plan policies in the Council's Statement of Case, of which I note Policy 21 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (October 2019). Part 2 of Policy 21 states that "*applications for development in the Green Belt will be determined in accordance with the National Planning Policy Framework.*" Therefore, as Policy 21 refers back to the National Planning Policy Framework (Framework), and because the Council cited the Framework in their reason for refusal, I find that they acted reasonably in this instance.
6. In terms of the reason for refusal, the Council considered that the development did not comprise an extension or alteration of a building with regard to

paragraph 149 c) of the Framework. The Council exercised its planning judgement as decision maker and was entitled to come to the conclusions it did based on the evidence before them, and the adopted development plan for the area and national planning policy. Therefore, I find the Council to have acted reasonably in this instance.

7. In the Council's decision notice and statement of case, the Council gave reasons as to why it was concerned that the development, by virtue of its proposed use and the changes to the building, would cause harm to the Green Belt. Such matters involve a degree of judgement and, while, on balance, I do not agree with the Council's decision, sufficiently robust evidence was submitted to show that it did not apply its judgement in an unreasonable manner, in accordance with the advice in the PPG.
8. Although the Council did not respond to the applicant's reference to the *Skerritts Case* (*Skerritts of Nottingham v Secretary of State for the Environment*, [2000] PLR 102), I have seen no sufficiently compelling evidence that the Council behaved unreasonably. Moreover, the applicant referred to the *Skerritts Case* in their grounds of appeal, which was after the Council had issued their decision.
9. The Council refused the application and has provided sufficient details as to why it did not grant permission. It is not therefore the case that the appeal could have been avoided and therefore the applicant has not incurred unnecessary and/or wasted expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is not therefore justified.

Helen Smith

INSPECTOR