



Costs Decision

Site visit made on 11 April 2023

by H Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2023

Costs application in relation to Appeal Ref: APP/H1033/W/22/3311107 Hilltop Cottage Stables, Hilltop Road, Glossop SK13 7QJ

- 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 Mrs P Sykes for a full award of costs against High Peak Borough Council.
 - The appeal was against the grant of planning permission subject to conditions for the demolition of existing stables and outbuildings and erection of single storey dwelling and associated works.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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. The costs application and rebuttal to the Council's response are all made in writing and are not therefore repeated in detail here. Similarly, this costs decision is not the place to re-run the merits of the appeal which are set out in my decision.
4. The Council accepted that condition 5 of the planning permission should be varied and that condition 10 should not have been attached. It did not therefore defend the variation and removal of these conditions at the appeal stage. Nevertheless, this did not prevent the appeal being made in the first instance. As can be seen in my decision, I have also found that conditions 6, 7 and 8 were not necessary to make the development acceptable.
5. In light of the above, it is clear that the Council acted unreasonably through the imposition of these conditions which were against the guidance in the National Planning Policy Framework (the Framework) as they were either unnecessary or not precise. This has caused the applicant to incur unnecessary and wasted expense through the preparation and submission of the appeal statement and making the costs application.
6. With regards to condition 12, the Council acknowledged that the gates on the approved site plan were sited beyond the 5 metre distance stipulated in this condition. However, it confirmed that the purpose of the condition is to ensure no other gates are introduced. It was not therefore precisely defined, thus I deleted and varied condition 12.

7. It can be seen from my appeal decision that, following an analysis of the types of gates, walls, fences and other means of enclosures which could be erected under permitted development rights, it was necessary to remove this permitted development right. However, whilst the Council set out the sensitive landscape characteristics of the locality, it did not provide a clear analysis of or expressly refer to how any particular extensions or alterations would be so harmful so as to warrant the limitation of permitted development rights.
8. The reasoning for the removal of all of the permitted development rights set out in condition 13 was therefore vague and unsupported by any objective analysis. In light of this and my findings above, this condition was not reasonable, necessary or precise in its wording as originally expressed by the Council.
9. Although I found that condition 15 is required to ensure details of landscaping were submitted for future consideration, it was clear from the Council's submissions that it also had concerns regarding the type of stone and other materials to be used for wider hard landscaping within the site. These details were omitted from the approved site plan. Despite the Council's concerns, the condition was not explicit with regard to the requirement to submit hard landscaping details. As such, it was not precise.
10. Paragraph 049 of the PPG sets out a list of types of behaviour which may give rise to a substantial award of costs against a local planning authority. This includes imposing conditions which are not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
11. My findings above lead me to conclude that the imposition of the aforementioned conditions, either in their entirety or their specific wording, were against national guidance in that they were either unnecessary, unreasonable or not precise.
12. Accordingly, the Council behaved unreasonably which resulted in the applicant incurring unnecessary and wasted expense through the subsequent appeal to challenge this decision and the expense of making the costs application. A full award of costs is therefore justified.

Costs Order

13. 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 High Peak Borough Council shall pay to Mrs P Sykes, the costs of the appeal proceedings described in the heading of this decision.
14. The applicant is now invited to submit to High Peak 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

H Ellison
INSPECTOR