



Costs Decision

Site visit made on 23 May 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th July 2023

Costs application in relation to Appeal Ref: APP/Z4718/W/23/3314809 Stock Dove House, 1 Field Lane, Farnley Tyas, Huddersfield HD4 6BR

- 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 & Mrs Sykes for a full award of costs against Kirklees Metropolitan Council.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of detached dwelling with integral garage (within a conservation area) without complying with conditions attached to planning permission Ref 2019/62/90164/E.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process. It is also clarified in the PPG that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, though behaviour and actions at the time of the planning application can be taken into account in the consideration of whether costs should be awarded or not.
3. The applicants are seeking a full award of costs and highlight both substantive and procedural issues. In terms of procedural matters, it is alleged that the Council has failed to work proactively and adhere to deadlines. The substantive issues relate to the Council's alleged failure to evidence the reason for refusal which it is suggested is not supported by objective analysis.
4. The Council has responded setting out their case and this includes their view that appropriate support was offered throughout the decision-making process but accept that delays in responding meant the application was not determined by the initial target date. The Council has explained that delays were due to receiving a high volume of planning applications since the Coronavirus Pandemic. While this explanation seems reasonable, it was not clearly articulated to the applicant until several weeks after the application was validated.
5. Despite the applicants providing a constructive line of questioning to try to better understand the Council's objections, a response to these questions from the Council was not forthcoming. Moreover, little evidence was put forward by the Council to support the reason for refusal to establish why the use of non-traditional materials would be harmful. The Council has not been clearly

articulated how the use of non-traditional materials that are aesthetically similar to traditional materials such as those in the adjacent Beech Farm development would harm the wider FTCA, which I observed to have a variety of window and garage designs and appearance. In respect of the reason for refusal the Council has not demonstrated with any clear evidence how the proposed development would be contrary to the stated development plan policies.

6. The Council has drawn my attention to paragraph 135 of the National Planning Policy Framework relating to the quality of approved development. However, it has not been shown by the Council how the use of non-traditional materials would materially diminish the original permission. Reference is made to the site forming part of the wider Beech Farm development, however, by virtue of the siting, orientation, and massing of the appeal property I have found that it would not be read as obviously forming part of the adjacent development. Instead, it would be viewed on approach to the village on Field Lane as a gateway development, and in the context of both the Beech Farm development and the modern commercial unit on the other side of Field Lane.
7. I am of the view that the delays during the determination of the appeal application are unfortunate, but the Council did maintain a dialogue and despite the delays, sought to update the applicant throughout. This brings me to conclude that no unreasonable behaviour occurred in this regard. However, in the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

9. 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 Kirklees Metropolitan Council shall pay to Mr & Mrs Sykes, the costs of the appeal proceedings described in the heading of this decision. The applicant is now invited to submit to Kirklees Metropolitan 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.

F Harrison

INSPECTOR