



Costs Decision

Site visit made on 17 November 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2023

Costs application in relation to Appeal Ref: APP/Z4718/W/23/3322018 Land and building off (formerly part of Beaconsfield Farm), Paul Lane, Flockton Moor, Huddersfield, WF4 4BP

- 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 David Haigh for a full award of costs against Kirklees Metropolitan Council.
- The site visit was in connection with an appeal against the refusal of Kirklees Metropolitan Council to grant planning permission for the change of use of agricultural building and land to equestrian use incorporating 6 stables, indoor menage, tackroom and equestrian storage without complying with a conditions attached to planning permission Ref 2022/62/90954/E.

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 unreasonably¹ and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG establishes that local planning authorities are at risk of an award of costs by imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations². This is of relevance in this decision as the applicant contends that the imposition of a condition No 6 on the parent application³ did not meet the relevant tests set out in the Planning Obligations and Conditions section of the National Planning Policy Framework (the Framework).
4. The applicant subsequently submitted an application under Section 73 of the Town and Country Planning Act 1990 as amended (the S73 application) to remove the disputed condition. This application was subsequently refused to protect the openness and character of the Green Belt from encroachment because the Council considered the change of use of the building to be larger than was feasibly required for a new equestrian enterprise and the Council would not have approved the development without condition No 6 being imposed.

¹Meaning of 'unreasonable' has its ordinary meaning. *Manchester CC v SSE and Mercury Communications*, 1988 JPEL 774.

² Reference ID: 16-032-20140306.

³ Council Reference: 2022/62/90954/E

5. In essence the applicant's case for a full award of costs is on substantive grounds. The substantive issues relate to the Council's alleged failure to substantiate the removal of the condition, which it is suggested did not have full regard to government policy and guidance pertaining to the 'six tests'⁴ for the use of conditions.
6. The Council sought to justify the condition based on the fundamental aims and purposes of Green Belt policy contained within chapter 13 of the Framework. However, the reasoning behind the imposition of the condition appears to have been more to do with preventing future development arising from previously developed land. However, there are provisions within the exceptions to paragraph 154 g) which relate to the assessing the effect of development which is on previously developed land in the Green Belt.
7. I have explained why the disputed condition No 6 does not meet any of the six tests in my decision. Therefore the condition should not have been imposed on the original permission and the Council was subsequently unreasonable in refusing to remove the condition following the submission of the S73 application.

Conclusion

8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense in pursuing the appeal for condition No 6 has occurred and a full award of costs is therefore warranted.

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 David Haigh the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. 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.

K Williams

INSPECTOR

⁴ Necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.