

Costs Decision

Site visit made on 17 October 2023

by K Williams

an Inspector appointed by the Secretary of State

Decision date: 16th April 2024

Costs application in relation to Appeal Ref: APP/N4720/W/23/3327986 Swillington Lane, Swillington, Leeds LS26 8QD

- 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 Leeds City Council for a full award of costs against Mr A Howarth.
 - The appeal was against the refusal of planning permission for variation of condition 3 (permitted development) of approval 20/02979/FU to amend condition wording to restore permitted development rights excluding Class A (Schedule 2, Part 1).
-

Decision

1. The application is refused.

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 application is made by the Council on the grounds that the appellant pursued an appeal based upon inaccurate, generalised or unsubstantiated evidence, introduced new material issues at a late stage and failed to engage with relevant material planning considerations. Consequently, it is submitted that the Council was needlessly compelled to allocate resources in contesting the appeal.
4. In any appeal the appellant should address the reasons why an application is rejected. It is the case that the appellant's statement, including the reference to outbuildings, and benefits to the appellant and family largely and adequately address aspects referred to within the officer reports. Furthermore, it is perhaps understandable given the conflicting advice provided by the Council in respect of the prior approval application that the Council's later view could cause confusion. Although, I had regard to the earlier appeal decision this was also not for the same type of application.
5. Turning to the substance of the case, a key aspect of the appellant's case was that that the imposition of the condition was not necessary, relevant or reasonable. Notwithstanding the Council's view the appellant did not substantively address Green Belt policy, although I did not agree with the exact variation of the condition, this to my mind was an arguable position, which was clearly made in terms of the six tests¹ and paragraph 55 of the National Planning Policy Framework.

¹ Paragraph: 003 Reference ID: 21a-003-20190723

6. Whilst I have some sympathy for the Council in the amount of officer time and associated cost that the processing of appeals can take, in order to be awarded costs it must be demonstrated that the activity of the other party has been unreasonable. In my view, much of what the Council has outlined relates to the normal consideration of an appeal and were matters familiar to the Council in respect of this site. As such this normal activity as a result of the appeal cannot amount to unreasonable behaviour.
7. Furthermore, I have had regard to the advice contained within the PPG in respect of when an award of costs might be made against an appellant,² and in respect of procedural³ and substantive⁴ awards of cost against an appellant. Although not exhaustive, I do not find that the appellant's behaviour falls within the above lists within the PPG.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

K Williams

INSPECTOR

² Paragraph: 051 Reference ID: 16-051-20140306

³ Paragraph: 052 Reference ID: 16-052-20140306

⁴ Paragraph: 053 Reference ID: 16-053-20140306