



Costs Decision

Site visit made on 17 September 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2024

Costs application in relation to Appeal Ref: APP/U2750/W/24/3345496 7 Hillshaw Park Way, Ripon, North Yorkshire HG4 1JU

- 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 and Mrs Hall for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of planning permission for the removal of garden shed, and replacement with a garden building that would normally be permitted development, change of use to hair salon as a work from home business.
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Decision

1. The application for an award of costs 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. Unreasonable behaviour may be procedural and/or substantive.
3. In summary, the applicants contend that the Council has acted unreasonably by failing to engage in the appeal proceedings and by not acknowledging or making any attempt to counter their case. The applicants argue that the Council has relied on an officer report that makes a series of vague, generalised, and inaccurate assertions about the impacts of the proposal which are unsupported by any objective analysis. The Council disputes that it has acted unreasonably.
4. The relevant documents considered during the application process should be sufficient to present a Council's case on appeal. If a Council decides it needs to make further representations, it can submit a statement of case. However, a Council can also rely on the questionnaire and supporting documents as its full representations on an appeal. For this appeal proposal, the Council indicated on its questionnaire that it would not be submitting a statement of case. Consequently, the fact that the Council has not submitted a statement of case is not of itself a demonstration of unreasonable behaviour.
5. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised, or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

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6. It is clear from the Council's officer report that the concerns lie with the proposed use of the building as a hair salon rather than the building itself, which the Council acknowledges would benefit from permitted development rights¹.
 7. The Council's reason for refusal is essentially a matter of planning judgement. The assessment of the effects of the proposal within the officer report is concise. In my view, it would have been helpful for the Council to have provided a clearer explanation of what aspects of residential amenity were unacceptable to assist the applicants in formulating their response. Nonetheless, this has not prevented the applicants providing a detailed appeal statement. Importantly, having regard to my conclusions on the proposal where I have found that the Council had reasonable concerns about its adverse effects, which are framed within the context of the development plan, this has not led to an appeal which could otherwise have been avoided. On that basis, the applicants have not been put to unnecessary or wasted expense in progressing the appeal.
 8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, an award of costs is not justified.

F Wilkinson

INSPECTOR

¹ Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)