



Costs Decision

Site visit made on 17 September 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2024

**Costs application in relation to Appeal Ref: APP/Z4718/W/24/3344713
176 Almondbury Bank, Almondbury, Huddersfield, Kirklees HD5 8EX**

- 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 Jonathan Gould for a full award of costs against Kirklees Council.
 - The appeal was against the refusal of planning permission for an infill dwelling on land adjacent existing back-to-back terrace.
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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. The type of behaviour that can lead to a costs award includes both substantive and procedural matters relating to issues arising from the planning merits of the appeal or relating to process.
3. The applicant has raised concerns at the lack of co-operation during the consideration of the application by the Council and has referenced comments within the delegated report that are said to be manifestly inaccurate or untrue in relation to the applicant not agreeing to an extension of time.
4. From the email correspondence provided, it does appear that there was discussion between the Council and the applicant, which included the submission of an amended plan. The applicant has stated that there was no correspondence in relation to an extension of time was received after 1 February 2024, but the Council has provided details of an email that was sent on 8 February 2024 to the nominated agent acknowledging the submitted material and requesting a further time extension.
5. The applicant has stated that this email was not received by them, and I do not have any further information to provide a definitive position on this matter. As the Council had sent an email, and not received a response, I do not consider that the reference to a further extension of time not having been agreed was manifestly untrue, albeit clearer wording could have been used in the delegated report.
6. The Council has acknowledged that the appeal scheme would be compliant with the Technical housing standards – nationally described space standards (NDSS), but have continued to state that the internal layout would not achieve

a high standard of residential amenity. The Council's concern is vague and is not supported by any further detail, and as such, the Council has failed to justify this aspect of the refusal.

7. In relation to private amenity space however, although I have found no harm, the Council has sufficiently explained its reasoning on why it considered the land to be outdoor amenity space.
8. The Council's refusal cites a development plan policy and a number of principles from the Housebuilders Design Guide Supplementary Planning Document (SPD) which the applicant does not consider support the refusal. Policy LP2 of the Kirklees Local Plan Strategy and Policies does relate to the character of places which formed the Council's first reason for refusal. A number of principles from the SPD are referenced, some of which have limited or no relevance to the first reason for refusal. Whilst the applicant's concerns on having to address these is noted, as an appeal would have been necessary, given the Council's stated concerns in relation to character and appearance, and on the living conditions of neighbouring occupiers, this would have necessitated a review of policies and guidance in presenting the applicant's case. It has not therefore been clearly demonstrated that this has resulted in unnecessary or wasted expense.
9. The PPG advises that not reviewing their case promptly following the lodging of an appeal against refusal of planning permission is one example of unreasonably defending appeals. In relation to the provision of satisfactory accommodation for future occupiers, the Council has failed to do this and persisted in making a vague assertion about a proposal's impact which is not supported by an objective analysis.

Conclusion

10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the provision of satisfactory accommodation for future occupiers of the proposed development and a partial award of costs is therefore warranted.

Costs Order

11. 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 Council shall pay to Mr Jonathan Gould, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in that part of the appeal relating to the provision of satisfactory accommodation for future occupiers; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Kirklees 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.

F Rafiq

INSPECTOR