



Costs Decision

Site visit made on 16 January 2025

by **Laura Renaudon LLM LARTPI Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 29 April 2025

Costs application in relation to Appeal Ref: APP/Z4718/C/23/3334813

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Kirklees Metropolitan Council ('the Council') for a full award of costs against Mr Mohammed Razzak ('the respondent').
- The appeal was against an enforcement notice alleging the erection of an outbuilding.

34 THORNCLIFFE ESTATE, Staincliffe, BATLEY, WF17 7BG

Decision

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

Background

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 case for the Council

3. The Council point out that an Inspector has recently dismissed an appeal for the same development on the same land and that nothing has changed since the determination of that appeal, which was considered under reference APP/Z4718/D/23/3320069. The respondent was alerted, before the present appeal was brought, to the likelihood of a costs application being made if the notice were to be appealed under ground (a). The Council identify their wasted expense as the staff time spent in dealing with the appeal that had no realistic prospect of success.

The case for the respondent

4. No response was received.

Reasons

5. Absent good reason, consistent decisions can be expected on planning applications. The appeal here concerns the same development as that previously dismissed on appeal by another Inspector. Although the proposed use of the building appears to have changed since then, that by itself could not overcome the previous Inspector's concerns about the harm to the character and appearance of the area caused by the building, found to be contrary to the development plan and specifically to Policy 24 of the Kirklees Local Plan 2019.
6. With no material change in circumstances having been identified, a dismissal of the appeal on ground (a) was inevitable. The circumstances here, where the appeal

follows a recent appeal decision in respect of the same development, are identified by the Planning Practice Guidance (paragraph 053; reference ID 16-053-20140306) as an example of substantively unreasonable behaviour. I find that such unreasonable behaviour has arisen here, by the pursuit of a ground of appeal that had no reasonable prospect of succeeding. The Council's costs of responding to the appeal on ground (a) are wasted expenses justifying an award of costs.

7. The Council have not expressly identified any unreasonable behaviour arising from the respondent's pursuit of other grounds of appeal. Had any fallback scheme been identified, such as the existence of permitted development rights, then an appeal on grounds (f) or (g) would not necessarily have been unreasonable. In this case no alternative was identified, meaning that a dismissal of the appeal on all grounds was inevitable. However, in the absence of the Council having raised that argument in its costs application, the respondent has not had the opportunity to respond to it, and accordingly I am not prepared to find that there has been unreasonable behaviour warranting an award of costs in relation to those other grounds.
8. I shall therefore award the Council's partial costs of responding to the appeal on ground (a).

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 Mr Mohammed Razzak shall pay to Kirklees Council the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in responding to the appeal on ground (a); such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The Council is now invited to submit to Mr Razzak details of those costs with a view to reaching agreement as to the amount.

Laura Renaudon

INSPECTOR