



Costs Decision

Site visit made on 1 April 2025

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 May 2025.

Costs application in relation to Appeal Ref: APP/Z4718/D/24/3349689

River Cottage, Copley Lane, Shelley HD8 8LZ

- 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 M Swift for a full award of costs against Kirklees Metropolitan Council.
 - The appeal was against the refusal of planning permission for 'Proposed erection of detached double garage'.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) explains that parties in planning appeals and other planning proceedings normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. Unreasonable behaviour can be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. In this case, the applicant has sought a full award of costs against the Council on both grounds.
4. On substantive grounds, this includes the allegation that the Council fundamentally misinterpreted what constitutes the 'original building' for the purposes of assessing the proposal against exceptions to inappropriate development in the Green Belt given in the National Planning Policy Framework (the Framework). Furthermore, that there was no reference to concerns relating to the setting of listed buildings prior to the refusal of planning permission.
5. As made clear in the appeal decision, I have disagreed with the applicant's definition of 'original building', which was the fundamental issue with regards to assessing the proposal against Green Belt guidance in the Framework and development plan policies. As such, on this ground I cannot agree that the Council erred in their approach and I disagree that this prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
6. With regards to the second refusal reason, the Council advises that it did not request further amendments to the proposal due to fundamental issues relating to the principle of development. Both parties refer to the consultation response from the Council's conservation officer, which offers support in principle subject to

several amendments. While the garage was moved and the doors amended, the Council ultimately included harm to the settings of listed buildings as a reason for refusal.

7. There is nothing before me to indicate that the Council mentioned this prior to refusing the application. However, it is also unclear as to how this has caused the applicant to incur further expense in the appeal process given there is little assessment of the proposal with regards to heritage matters. There is no establishment of special interest and/or significance of either listed building, the contribution setting makes nor the impacts of the proposal. The applicant's assessment of this matter is limited to procedural complaints which do not aid in analysing the merits of the proposal.
8. On procedural grounds, it is alleged that the Council erred in requesting an amended plan of the proposal before stating in its officer report that it had not received the plan. Furthermore, that the Council ignored the advice of its conservation officer as a technical expert and that they were not reconsulted following receipt of the amended plan.
9. The Council's officer report details that 'amendments were made to the material of the garage door from aluminium to timber. The officer also requested the position of the garage was moved, however no amendments were forthcoming'. I was provided with a copy of the amended plan showing the updated position of the garage but not the original version. While this could have been made clearer in the officer report, the decision notice clearly details the correct version of the plan which was refused, and this matches the reference given by the applicant. Moreover, the decision is ultimately that of the planning officer and whether they choose to follow the advice of consultees is their prerogative.
10. As such, I do not find that this has caused the applicant unnecessary expense through unreasonable behaviour. Ultimately, the refusal of planning permission was the result of a fundamental disagreement between the parties which could have only been resolved by way of an appeal.

Conclusion

11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not warranted. The application is therefore refused.

C McDonagh

INSPECTOR