Planning Inspectorate

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Mr Christopher Fish
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Your Ref: DM/23/00144/LBC

Our Ref: APP/X1355/Y/24/3347941

Date: 1 August 2025

Dear Sir

LOCAL GOVERNMENT ACT 1972 – SECTION 250(5)
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 – SECTIONS 20 & 322
3 BOLDRON LANE, STARTFORTH DL12 9AR
APPEAL BY MR AND MRS MARCEL DIETEREN: APPLICATION FOR COSTS

1. I am directed by the Secretary of State for Housing, Communities and Local Government to refer to the Planning Inspectorate's letter of 8 April 2025 confirming the acceptance for consideration of an award of costs concerning the above appeal. The appeal was against the decision of Durham County Council of 24 May 2024 to refuse listed building consent to replace six windows to the south elevation of 3 Boldron Lane, Startforth DL12 9AR.

2. This letter deals with the appellant's application for an award of costs against the Council as made in correspondence dated 21 and 24 February 2025. The Council replied on the 6 May 2025. As these representations have been fully disclosed to the parties, it is not proposed to summarise them. They have been carefully considered.

Summary of decision

3. The formal decision is set out in paragraph 15 below. The application fails and no award is being made.

Basis for dealing with the costs application

4. In planning and enforcement appeals the parties are normally expected to meet their own expenses irrespective of the outcome. Costs are awarded only on the grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense.

5. Section 322 of the Town and Country Planning Act 1990 enables the Secretary of State to award appeal costs against any party, irrespective of procedural method, where it is found that one of the parties to the appeal has behaved unreasonably and the expense incurred by any of the other parties is wasted as a result.

6. The application for costs has been considered by reference to the Government's Planning Practice Guidance (PPG) on awards of costs (as published on the Gov.uk website under "Appeals"), the appeal papers, the correspondence on costs and all the relevant circumstances.

Reasons for the decision

7. All the available evidence has been carefully considered by the Secretary of State. The costs application is on the basis that the Council acted unreasonably by not attending a site visit arranged by the appointed Planning Inspector. The guidance at paragraph 047 of the PPG costs guidance is therefore relevant.

8. The sequence of events leading up to the site visit have been noted. The appeal and relevant documents were received by the Planning Inspectorate on 11 July 2024. The Inspector's Start letters of 17 July 2024 informed the parties that the appeal would be dealt with via the written representations procedure and a timetable was set for the submission of appeal documentation. The Council's Statement of Case was received by the Inspectorate on 20 August 2024. On the 25 February 2025 the appointed Planning Inspector undertook an access required site visit.

Conclusions

9. The appellant's costs application is for a full award of costs as they consider they were disadvantaged as the Council acted unreasonably by way of failure of a representative to attend the Planning Inspector's arranged access required site visit with the Planning Inspector as there was no opportunity for the Council to engage in meaningful dialogue regarding the merits of the case with the appellant and Planning Inspector.

10. An appeal should be made as a last resort although the view is taken by the Secretary of State that it was not unreasonable in itself for the applicant to exercise their statutory right of appeal although the onus was on them to proceed with it in a reasonable manner. Para 047 of the PPG warns that an award of costs may be made against the appellant(s) in the circumstances of failure to attend or be represented at a site visit without good reason, if the claiming party can clearly show that they have incurred wasted expense as a result.

11. The Planning Inspectorate accepted the appeal and processed the Statements of Case submitted by the parties. The Secretary of State notes the appellant's completed appeal form submitted to the Planning Inspectorate, seeks access to be required by the Inspector. Conversely, the Council's completed Questionnaire submitted to the Inspectorate in Part 1 states that no access was necessary for the Planning Inspector. On the basis of the evidence submitted with the appeal, the Inspector formed their own independent view on the appropriateness to view the site and surroundings. They issued a letter to the appellant dated 30 January 2025 requesting access to the property. This letter confirmed access for the Inspector to be scheduled for 25 February 2025.

12. The letter of 30 January 2025 explained the purpose of the appeal site visit was to view the site and surroundings and your presence was required. It also advised that '*no discussion of the grounds of refusal or appeal can be considered at this site visit.'* It also went on to confirm that a representative from the local planning authority would not be attending the site visit.

13. The Secretary of State notes this letter was the first time the appellant was made aware that the Council would not be attending the site visit. The site visit arrangements were made at the discretion of the Inspector and she considered no accompanied site visit to include the Council was necessary. Therefore, it would have been unreasonable for the Council to attend in this instance as the Inspector's decision was made on the basis of access only was required to the property, The site visit is not intended to afford the appellant an opportunity to discuss the merits of the case with the Inspector as explained within the letter of 30 January 2025. Even if the Planning Inspector had requested both parties be in attendance on site with the Inspector at an accompanied site visit, there would be no opportunity to debate the merits of the case between the parties.

14. Therefore, it is not considered that the Council acted unreasonably by not attending or being represented at the Inspector's site visit as they were not required to do so, at the request of the appointed Inspector. The conclusion therefore drawn, that the Council failed to attend the site visit as they were not invited to do so by the Inspector, the Appellant did not incur unnecessary expense in the appeal process. An award of costs will therefore not be made.

FORMAL DECISION

15. For these reasons the Secretary of State has decided that an award of costs on grounds of "unreasonable" behaviour resulting in unnecessary expense is not justified in the particular circumstances of this case. The appellant's application for costs is therefore refused.

16. A copy of this letter has been sent to the Council.

Yours faithfully

A Scott

ALISON SCOTT
Authorised by the Secretary of State
to sign in that behalf