



Costs Decision

Site visit made on 11 August 2025

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 August 2025

Costs application in relation to Appeal Ref: APP/A4710/D/25/3367854

3 Providence Hill, Beestonley Lane, Stainland, Elland HX4 9PL

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr A Cigan for a full award of costs against Calderdale Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission, reference 25/00395/VAR, for balconies to rear elevation and external alterations to windows and doors without complying with a condition attached to planning permission reference 21/00831/HSE dated 9 September 2021.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. The applicant claims that the council acted ultra vires as it uploaded and refused drawings not submitted; and altered the description of development. It also failed to determine the application in accordance with the development plan, as the installed glazing is permitted development giving a clear fallback position that is a material consideration. The council also failed to work proactively with the applicant with the refusal being issued after the statutory eight-week deadline with no agreed extension of time.
4. An application seeking to amend a condition of an existing planning permission relating to the approved plans requires that both the previous planning permission decision and the plans are to be considered. A positive decision results in a new planning permission and as such, it should refer to all plans that illustrate the development, even those not altered. The council were therefore correct to ensure that all plans were within the planning register.
5. The description of development in cases such as this can only relate to the original description of the approved development. The council's decision notice could be more specific but I am not satisfied that this represents unreasonable behaviour.
6. The council did determine the application in accordance with the development plan. There is dispute between the parties as to whether the currently installed glazing represents a fallback position that should be taken into account. However, the council have determined a lawful development application and their decision was

upheld at appeal. In the absence of a certificate, demonstrating lawfulness, the council are entitled to maintain their position and as such, the fallback position referred to by the applicant has not been shown to be lawful and cannot therefore be taken into account as a material consideration. I do not find any unreasonable behaviour by the council in this regard.

7. It is unclear what the applicant considers that the council could have done differently if there had been greater dialogue. The glazing is already in place; a lawfulness determination has been made and supported; and the council then reached a reasonable decision on the basis of the evidence and the development plan. Better communication could have resulted in a request for an extension of time but that would not have avoided this appeal.
8. I am not satisfied that the council has acted unreasonably. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is therefore not justified.

Peter Eggleton

INSPECTOR