
Costs Decision

Site visit made on 1 April 2025

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 08 October 2025

Costs application in relation to Appeal Ref: APP/Z4718/C/24/3342421

Land south of 5-25 Clay Well, Golcar, Huddersfield

- 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 Brierstone Newsome Ltd for a full or partial award of costs against Kirklees Metropolitan Council.
 - The appeal was against an enforcement notice alleging without the benefit of planning permission, the erection of 8 dwellings.
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Decision

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

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 PPG states that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal. It further states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.
3. Planning permission was granted for the residential development of 13 dwellings, and a later application sought various amendments to this permission. As the applicant went into administration, the decision on that later application did not reach them in time to allow for an appeal against that decision. This was outside of the control of the Council.
4. An enforcement notice was later received by the applicant relating to 11 of the 13 dwellings granted planning permission, excluding two of the dwellings that the Council were aware as being no longer in the applicant's ownership, and an appeal against this was progressed. Having later realised that only 8 of the dwellings remained in the applicant's ownership, the Council withdrew this earlier enforcement notice and, some weeks later, served the enforcement notice that is subject to this appeal. It was not unreasonable for the Council to do so, to ensure that the notice was correctly served.
5. I acknowledge the applicant's frustration and note the contention that the Council would have been aware of the ownership position some months prior to withdrawing the notice. However, this does not relate to the enforcement notice or appeal before me. While I further note that the Council undertook to serve the current enforcement notice immediately after withdrawing the original, and that

instead a delay of some weeks occurred, there was nothing compelling them to do so such that I do not find this to be unreasonable behaviour.

6. The current enforcement notice subject of the appeal before me was served. The deemed application fee paid in respect of the original notice was not transferred to the new appeal, and this was returned to the applicant. However, due to the passage of time, the applicant had to pay increased planning fees in respect of the current appeal. While this is regrettable, the increase in such fees was not decided by the Council such that this was not unreasonable behaviour on the Council's part. Furthermore, the evidence before me suggests that the fees paid by the applicant in respect of the current appeal against the enforcement notice relating to 8 dwellings was overall less than the earlier fees in respect of the previous appeal against an enforcement notice relating to 11 dwellings.
7. The applicant's submission further references wasted costs in relation to appeals against notices served in relation to the other five dwellings originally granted permission. However, this does not relate to this appeal. In addition, there is nothing substantive to suggest financial penalties from a finance provider.
8. In conclusion, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Rafferty

INSPECTOR