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## Costs Decision

Site visit made on 13 March 2017

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 5<sup>th</sup> April 2017**

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### **Costs application in relation to Appeal Ref: APP/Y2430/W/16/3164910 36 - 38 Watnaby Road, AB Kettleby, Melton, Leicestershire LE14 3JJ**

- 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 E Hanlon for a full award of costs against Melton Borough Council.
  - The appeal was against the refusal of planning permission for 5 houses and 1 cottage, garages and parking.
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### **Decision**

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

### **Reasons**

2. The *Planning Practice Guide* (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals, and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process.
3. The application for an award of costs relies to a large extent on the fact that the Committee of the Council determining the planning application decided not to accept the recommendations of its Officers to grant permission. As a consequence, it is argued that members both prevented and delayed development which should clearly be permitted having regard to the development plan, national policy and any other material considerations. In addition, the applicant claims that by failing to produce evidence to substantiate the reason for refusal the Council has acted unreasonably. The PPG indicates that, in such circumstances, costs may be awarded against an authority.
4. Whilst members are not required to follow the professional advice of their officers, in such circumstances, it is reasonable to expect the Council to produce relevant material at appeal to support their decision. No appeal statement was submitted by the Council, and the opportunity to respond to the appellant's cost application, made in the absence of an appeal statement, was not an appropriate means for this to be remedied.
5. I understand that the Council indicated very late in the appeal process, that due to illness the officer who had been dealing with the case was unavailable at the time of the appeal. However, whilst this is regrettable it does not form a substantive reason for the Council to be unable to respond to the appeal within the timeframes.

6. Therefore, as no specific evidence was provided by the Council at appeal to support their decision to refuse planning permission, I consider that the Council's approach does represent unreasonable behaviour, and this has resulted directly in the need for this appeal.
7. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

### **Costs Order**

8. 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 Melton Borough Council shall pay to Mr E Hanlon, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Melton Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Alison Partington*

INSPECTOR