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## Costs Decision

Site visit made on 14 June 2017

**by B Bowker Mplan MRTPI**

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

**Decision date: 14 July 2017**

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### **Costs application in relation to Appeal Ref: APP/G2435/W/17/3167167 Land off Worthington Lane, Breedon on the Hill, Leicestershire**

- 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 John Blunt for a partial award of costs against North West Leicestershire District Council.
  - The appeal was against the refusal of planning permission for erection of 27 dwellings (outline application – all matters reserved except for access).
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### **Decision**

1. The application for a partial award of costs is allowed for the reasons given below.

### **Reasons**

2. The National Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may only 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 PPG also advises that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. Another example of unreasonable behaviour that could lead to an award of costs is refusing planning permission on a planning ground capable of being dealt with by a suitable planning condition.
4. The appellant seeks a partial award of costs relating to the Council's refusal of permission on highway safety grounds. The appellant contends that information submitted at the application stage clearly demonstrated that an access could be delivered at the site in accordance with local standards. The appellant also highlights that the Highway Authority raised no objection to the proposal subject to conditions, and that the Planning Officer recommended the application for approval.
5. It is also contended that Members ignored technical facts and based their decision on unjustified and unsupported opinion to conclude that the proposal should be refused on grounds of highway safety. In this respect, the appellant considers that the Council behaved unreasonably, that the matter could have been dealt with by planning conditions, and that the appellant has incurred unnecessary expense in obtaining highways advice to contend the appeal.

6. Whilst the Council is not bound to follow the advice of its professional officers, any contrary view reached needs to be supported by evidence and substantive reasoning. The Travel Plan and Highway Impact Assessment submitted with the application measured speeds in excess of the speed limit in both directions. However, irrespective of the speeds recorded, the Highway Authority were satisfied that traffic calming measures could ensure that vehicular speeds in the vicinity of the site would be 30mph and below.
7. I accept that local members and residents possess local knowledge and I note that numerous representations were received in relation to traffic speeds and the site access. The hillcrest at Worthington Lane and the change in speed limit were also brought to my attention. However, the Council's Statement of Case does not contain any substantive reasoning or evidence to back the assertion that traffic calming measures would be ineffective. Similarly, taking into account the size of the site, the Council do not provide any substantive reasoning or evidence to demonstrate that the proposed access could not be constructed at a suitable gradient. Nor is any substantive reasoning or evidence put forward to demonstrate that constructing the site access to a gradient in accordance with Highway Authority specifications would result in harm to highway safety.
8. In reaching this view I note that local residents separately commissioned a Highway Consultant to support their highway objections. However this document does not form part of the Council's case. Moreover, by this point the appeal with additional highway evidence had been submitted and thus unnecessary costs had already been incurred by the appellant.
9. Consequently the Council have demonstrated unreasonable behaviour by not providing sufficient justification or substantive evidence to depart from the advice it received from its officers in relation to highway safety. As a result, the appellant has incurred unnecessary and wasted cost in having to contend this reason for refusal by submission of an appeal.

### **Costs Order**

10. 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 North West Leicestershire District Council shall pay to Mr John Blunt the costs incurred limited to contesting the Council's reason for refusal relating to highway safety.
11. The applicant is now invited to submit to North West Leicestershire District 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Cost Office is enclosed.

*B Bowker*

INSPECTOR