
Costs Decision

Site visit made on 12 July 2017

by Michael Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 28 July 2017

**Costs application in relation to Appeal Ref: APP/E2340/W/17/3173356
Land off Gisburn Road and Greenberfield Lane, Barnoldswick, Lancashire
BB18 5LJ**

- 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 Ann Brooks & Elizabeth Beasley for a full award of costs against Pendle Borough Council.
 - The appeal was against the refusal of planning permission for 'construction of new access road and 20 no new houses reapplication on 16/0382/RES'.
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Decision

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

Reasons

2. The *Planning Practice Guidance* (PPG) advises that, irrespective of the outcome of the appeal, 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 PPG goes on to state that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal on appeal or prevent or delay development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations. Vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis may also result in an award of costs against a local planning authority.
 4. Although the advice and recommendations of Officers were not accepted by the Members of the Council's Planning Committee, they are not bound to do so. The effect of the proposal on highway safety requires a judgement to be made.
 5. In essence, the Council's reason for refusal states that the proposal would increase vehicular movements along Greenberfield Lane and the substandard nature and lack of visibility at the junction would have a severe and unacceptable impact on highway and pedestrian safety. It also identifies the development plan policy which the proposal would breach and conflict with the *National Planning Policy Framework* (the Framework).
 6. The Members' judgement was exercised against a background of the consultation response from the highway authority and the recommendation of the Council's Case Officer. The Highway Officer noted that whilst the scheme would significantly increase the number of vehicles using Greenberfield Lane,
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- the carriageway would be widened to improve two-way passage of traffic and new footways would enhance pedestrian safety. Visibility at the site access to Greenberfield Lane was deemed satisfactory subject to improved sight lines and it was felt that the development would have a negligible impact on vehicular safety and capacity on Gisburn Road.
7. The appellants' case is supported by a detailed analysis of the existing highway conditions and an assessment of the highway impacts of the proposal, including traffic generation modelling, injury accident data and commentary regarding the design of the new access, footway provision and road widening.
 8. The Council expands upon its concerns in its appeal statement, describing the locally prevailing highway conditions. They include the restricted visibility and width of Greenberfield Lane, limited passing places, on-street parking and resultant conflict between the numerous and varied users of the route, including pedestrians and horse riders. It is argued that these conditions would be significantly aggravated by traffic generated by the appeal proposal. Of primary concern is the potential for accidents arising from increased traffic at the entrance to the site, as well as at the junction with Gisburn Road where on-street parking and vehicle speeds combine to create hazardous highway conditions.
 9. Whilst I have reached a contrary view to the Council on the merits of the case, the Authority has provided sufficient evidence to support its reason for refusal, which is based on reasonable planning grounds. In particular, by reference to the development plan, the Framework and other material considerations, the Council has adequately demonstrated how it considers that the proposal would be harmful to highway and pedestrian safety, and has therefore substantiated its reason for refusal. Furthermore, the decision was made following a site visit by the Planning Committee to assess the proposal 'on the ground'.
 10. I therefore conclude that unreasonable behaviour resulting in unnecessary expense for the appellants, as described in the PPG, has not been demonstrated.

Michael Moffoot

Inspector