



## Costs Decision

Inquiry held on 5-8 & 12-15 June 2018

Accompanied site visit made on 15 June 2018

**by M C J Nunn BA BPL LLB LLM BCL MRTPI**

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

**Decision date: 21 December 2018**

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### **Costs application in relation to Appeal Ref: APP/N4720/W/17/3186216 Land at Ridge Meadows, Linton, West Yorkshire, LS22 4HS**

- 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 Kebbell Developments Ltd for a full award of costs against Leeds City Council.
  - The appeal was made against the failure to give notice within the prescribed period on an application for outline planning permission for 26 dwellings together with means of access.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) states that parties in appeals normally meet their own expenses. The PPG also 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. For an application for costs to succeed, an applicant will need to demonstrate clearly how any alleged unreasonable behaviour has also resulted in unnecessary or wasted expense.
3. The Appellant's costs claim alleges that the Council was unreasonable in refusing this scheme. In essence, it relies on the substantive case made at the Inquiry. I have set out my conclusions on these matters in my decision. As is evident, I generally prefer the arguments advanced by the Appellant. That said, I do not consider the Council's arguments to be inherently untenable or unreasonable. In my judgement, the Council has produced a sufficient body of evidence to substantiate its putative refusal grounds.
4. However, I agree that in respect of the green space issue, the Council's case was weak, given that this was an outline scheme. Indeed, the Council's closing submissions acknowledge that this reason did not enable refusal of permission<sup>1</sup>. On the other hand, given the Council's concerns, it might have been helpful if a revised illustrative plan had been put forward by the Appellant to show clearly that green space could be provided that was satisfactory in both qualitative and quantitative terms. In any event, this was not one of the central issues of debate at the Inquiry. Relatively little time was spent

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<sup>1</sup> Paragraph 78

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discussing it, and even if the Council's behaviour was unreasonable in this respect, any associated costs would have been *de minimis*.

5. Taken as a whole, I am satisfied that the Council's case was not characterised by vague, generalised or inaccurate assertions, nor was it unsupported by objective analysis. The meaning and interpretation of local and national planning policy, along with the other matters raised by the Council, are proper matters of debate about which reasonable people may disagree. They inevitably involve matters of planning judgement. Overall, I find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated and that no award of costs is justified.

*Matthew C J Nunn*

INSPECTOR