



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

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 Leeds City Council for a partial award of costs against Kebbell Developments Ltd.
 - 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 Council's costs claim was on the basis of unreasonable behaviour as follows: it is alleged that on two separate occasions, the Appellant caused the loss of significant Inquiry time, and that it could have been completed in 7 days, rather than the scheduled 8 days. First, additional new evidence by the Appellant was produced late in the afternoon of Day 2, including new 'commentary' and 'amplification' on disputed sites, ahead of the housing round table the following day. This required an adjournment of around 4½ hours on Day 3 to allow the evidence to be reviewed by the Council. Second, the Appellant threatened to apply for an adjournment of the Inquiry during Week 2, so that further evidence could be produced by the Council in respect of its case on the Linton Neighbourhood Plan (LNP) and Policy D1, with potential further cross-examination, resulting in the loss of around 1 hour and 20 minutes.
 4. Overall, taken in the round, it seems to me that late evidence was submitted by both parties, outside the normal Inquiry timetable. For example, rebuttal proofs were submitted shortly before the opening of the Inquiry by both the Council and Appellant, adding extra material to the already very substantial
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evidence base. So whilst the Council complains that time was wasted during the Inquiry, I am not convinced that in terms of late evidence, its conduct was without fault or that it was blameless in this regard.

5. The purpose of any commentary / amplification on disputed sites was designed to assist and facilitate the housing round table discussion, and to allow matters to be dealt with efficiently and effectively. The Council requested additional time to review this material which was duly given. In respect of LNP Policy D1 and the accessibility improvement contributions, these had not been previously dealt with in the Council's written evidence. Although initially requesting an adjournment, the Appellant on reflection ultimately sought to respond in a positive way to evidence that arose during the course of the Inquiry, and put forward measures to address the Council's concerns. Regrettably, at times, behaviour at this Inquiry was unnecessarily antagonistic and confrontational. Fundamentally, however, the Inquiry did not overrun the scheduled number of days. Taking matters as a whole, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated, and an award of costs is not justified.

Matthew C J Nunn

INSPECTOR