
Costs Decision

Site visit made on 28 January 2020

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2020

Costs application in relation to Appeal Ref: APP/C2741/W/19/3240258 4 Croft Farm Close, Copmanthorpe, York YO23 3RW

- 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 Jon Browne for a full award of costs against the City of York Council.
 - The appeal was against the refusal of planning permission for a one and a half storey new dwelling including detached double garage and new site access.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that 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 applicant states that the Council acted unreasonably during the determination of the planning application, which has caused the unnecessary and wasted expense incurred in the preparation and submission of the appeal. As such, the applicant is of the view that the appeal was unnecessary and that the Council ought to have granted planning permission.
4. The applicant refers specifically to the conduct of the Local Highway Authority which initially objected to the proposal then indicated that the objection could be overcome before finally reverting to its initial objection on highway safety grounds. The applicant also takes issue with the way technical details in relation to the current traffic restrictions along Yorkfield Lane were conveyed to members of the Area Planning Sub-Committee (the Committee) and how these might be overcome. The suggestion being that members of the Committee were misled and denied the opportunity to make amendments to the Traffic Regulation Order (TRO).
5. From the evidence before me, it is clear that the Local Highway Authority has been in discussions with the applicant for a number of years prior to the submission of the application for planning permission and had consistently raised concerns relating to highway safety. During the determination of the planning application an alternative view was expressed by a different Highway Officer. However, this view then reverted to an objection following a review of

the Local Highway Authority position that appears to have been triggered by an objection from the adjacent Primary School.

6. Nevertheless, it is not unreasonable nor unusual for a consultee to review their comments during the determination period of a planning application and especially in light of objections relating to their area of responsibility. Furthermore, it can be seen from my decision that I too have concerns regarding highway safety and that revisions to the TRO would not overcome these concerns. Consequently, the Local Highway Authority objection was justified.
7. It is also clear from the evidence that powers to make revision to a TRO are beyond the remit of the Committee and therefore they could not have been denied the opportunity to do something that was, in the first place, outside of their gift. Indeed, such matters sit outside of the planning system and are governed by separate legislation.
8. The technical details in relation to the existing TRO and how this might be revised are clearly set out in the Local Highway Authority's written consultation responses. The applicant also submitted their own evidence setting out their view in this regard. While these views differed, I am satisfied that members of the Committee were not misled over these matters and that all the facts and relevant information was before them at the time of their decision.
9. Accordingly, I do not consider that the Council failed to properly evaluate the application or acted unreasonably in its determination of the planning application. It was reasonable for the Council to act on the concerns raised by the Local Highway Authority, which justified its decision to withhold planning permission. As such, the appeal was unavoidable.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated, and thus an award of costs is not justified.

Jeff Tweddle

INSPECTOR