
Costs Decision

Site visit made on 21 September 2021

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 20 October 2021

Costs application in relation to Appeal Ref: APP/E2734/W/21/3274106 Field at Massey Fold, Spofforth, HG3 1AE

- 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 Yorkshire Housing Ltd for a full award of costs against Harrogate Borough Council.
 - The appeal was against the refusal to grant approval of details required by a condition of an outline planning permission.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably, and thereby caused the party applying for the costs to incur unnecessary or wasted expense in the appeal process.
3. The application was recommended for approval by the Council's officers. Members are not bound to accept the recommendations of their officers, however, this does not exempt them from following the Planning Practice Guidance which says that Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.
4. Examples of this are listed¹ in the PPG and include: "Preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations"; and "vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis"
5. The site is allocated for residential development within the Harrogate District Local Plan 2014-2035 (LP) and outline planning permission, including access, has already been granted for 72 dwellings. The principle of whether the site is suitable for residential development has therefore already been accepted by the Council, including the density and access.
6. I have found that the proposal would comply with the development criteria set out in LP Policy SP6. The site allocation and the number of dwellings permitted has already been established and I have found that the Council is wrong to describe the form of development in the village to be broadly linear. Cul-de-

¹ Paragraph 049 Reference ID 16-049-20140306

sacs are a feature of the conservation area. The parking courts would be within the area of built development and car parking has to go somewhere. The Council has not adequately explained why the proposed parking would be any worse than any other car parking arrangement.

7. The rural setting of the village would be eroded to some extent but this has already been determined by allocating the site for housing. There is nothing in the Council's evidence, apart from vague and generalised assertions, to substantiates how the proposed layout or materials would have any greater impact upon the setting of the heritage assets than what is already inevitable given the planning history of the site. The Council's statement even says that "the introduction of development" would "severely impede the ability to view and experience this context" but the introduction of development has already been approved. It is irrational of the Council to object to the size the gardens given that they have already approved the density of the development.
8. Given the site's planning history, I find the Council's refusal of the application and subsequent defence of the case to be both vague and illogical. I consider that the development should have been clearly permitted and that the Council produced vague and generalised assertions about the proposal's impact which are unsupported by objective analysis. The Council has therefore behaved unreasonably, and thereby caused the party applying for the costs to incur unnecessary expense in the appeal process.

Costs Order

9. 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 Council shall pay to Yorkshire Housing Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Harrogate Borough Council, details of those costs with a view to reaching agreement as to the amount.

Siobhan Watson

INSPECTOR