



Costs Decision

Site visit made on 14 June 2022

by M L Milliken BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2022

Costs application in relation to Appeal Ref: APP/N2739/W/22/3290831 Yew Tree House, Main Street, Kelfield, York YO19 6RG

- 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 Richard Atkinson for a full award of costs against Selby District Council.
 - The appeal was against the failure to determine an application for consent, agreement or approval of details required by a condition of a planning permission relating to access, appearance, landscaping, layout and scale.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) 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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive. Paragraph 049 of the Guidance states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to, amongst other things, preventing or delaying development which clearly should be permitted.
3. The applicant submits that the Council behaved unreasonably by deferring the application twice at Planning Committee, despite it being recommended for approval and that this behaviour resulted in the application being unnecessarily delayed. The applicant further submits that the council has not produced any evidence to substantiate its failure to make a decision at either the December 2021 or January 2022 Planning Committees, nor has it provided any statement as to what decision it would have made had it made a decision.
4. The applicant asserts that the unreasonable behaviour on the part of the Council resulted in submission of the appeal, unnecessary time delays and expense being incurred, including the appointment of a Planning Consultant to provide guidance in relation to the appeal process, to submit the appeal forms, grounds of appeal and relevant supporting documentation, to review the Council's suggested conditions and to prepare and submit final comments and to prepare and submit a costs application.
5. The Council asserts that the proposal would not make provision for a suitable layout, with resultant implications for the character and appearance of the area

as a result of layout, scale and housing mix. However, as set out in my decision, the application was recommended for approval and the Council did not provide objective analysis to support its position, or compelling evidence to counter the applicant's evidence. For reasons provided within my appeal decision, I consider the proposed development to be acceptable in these terms and I am not satisfied it has been demonstrated that the proposed development conflicts with development plan policy or the National Planning Policy Framework.

6. I accept that members had concerns regarding the proposal, contrary to the recommendation of their officers. Whilst the Council's Planning Committee is not bound to follow the recommendations of its officers, it must however substantiate the decisions that it makes, including providing adequate justification for the deferral of an application.
7. Whilst I understand that some discussion took place between the main parties following deferral of the application and prior to the appeal being lodged, there is evidence before me to suggest that a resolution between the parties was not forthcoming and that the Council behaved unreasonably in not making a decision to either approve or refuse the application, or provide adequate justification for further deferral. I am also mindful that some of the Council's reasons for deferral of the application were capable of being dealt with by planning condition.
8. For the reasons given, I find that the Council's actions in this case, including preventing or delaying development which should clearly be permitted, constitutes unreasonable behaviour which has resulted in unnecessary and wasted expenditure on the part of the applicant, as described in the PPG. A full award of costs is justified, to cover the expense incurred by the applicant in lodging the appeal.

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 Selby District Council shall pay to Mr Richard Atkinson, 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 the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.