

Costs Decision

Site visit made on 22 November 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2022

Costs application in relation to Appeal Ref: APP/A3010/W/22/3304294 Land to the Rear of No's 73-81 Scrooby Road, Bircotes DN11 8JN

- 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 Sam Price for a full award of costs against Bassetlaw District Council.
 - The appeal was against the refusal of permission in principle for residential development of two to four dwellings.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 expense in the appeal process.
3. Paragraph 049 of the Planning Practice Guidance offers some examples of unreasonable behaviour by local planning authorities. For the purposes of this application, this includes 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. It is also alleged that the Council has not had due regard to the legal parameters of the planning application with regards to the amount and detail of the information submitted and acting contrary to, or not following, established legislation, the PPG and appeal decisions relating to the matters of 'location, land use and amount of development.
4. As per the PPG, matters of consideration for an application for permission in principle are limited to location, land use and amount¹. I note the Council did assess these in their officer report. However, they also concluded that the application was unacceptable with regards to highway safety, as the proposed vehicular access was considered too constrained in terms of its width. After asking for further information, the application was refused.
5. The same paragraph of the PPG does advise that issues relevant to these 'in principle' matters should be considered at the permission in principle stage. It is therefore reasonable that vehicular access could be related to location, although the amount of information should be commensurate to the in-principle aspects of this stage of the proposal.

¹ Paragraph: 012 Reference ID: 58-012-20180615

6. Therefore, refusing the application because further technical details were not provided was unreasonable, as these should be provided at the technical details consent stage. I therefore find that the Council was unreasonable in its behaviour in this regard.
7. However, I must also consider whether the Council's unreasonable behaviour has meant that the applicant has incurred any unnecessary costs or wasted expense. The applicant has had to defend reasons for refusal at appeal, which necessitated appointing a consultant to prepare an appeal statement to accompany the appeal. Accordingly, I find that the applicant has incurred unnecessary expense in rebutting these unsubstantiated reasons for refusal.
8. In these circumstances, the refusal of planning permission constitutes unreasonable behaviour contrary to the basic guidance in the Framework and the PPG and the applicant has been faced with the unnecessary and wasted expense of lodging the appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

10. 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 Bassetlaw District Council shall pay to Mr Sam Price 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.
11. The applicant is now invited to submit to Bassetlaw District 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.

C McDonagh

INSPECTOR