
Costs Decision

Site visit made on 15 November 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Costs application in relation to Appeal Ref: APP/A3010/W/22/3300842 The Dale/Windle House Gap, Broomhill Lane, Everton, Doncaster, South Yorkshire DN10 5DG

- 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 Troop for a full award of costs against Bassetlaw District Council.
 - The appeal was against the refusal of planning permission for: 'Outline Planning Application with some matters reserved (Approval Sought for Landscaping) for 5 no. dwelling houses (resubmission of application 20/00602/OUT)'.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) explains how costs may be awarded against a party who has behaved unreasonably, and thereby directly caused another party to incur unnecessary expense at appeal.
3. Paragraph 49 of the PPG states 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, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. The PPG gives examples of this as: '*not determining similar cases in a consistent manner*' or '*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*'.
4. Much of the applicant's case for an award of costs relates to the Council's behaviour during the examination of the Everton Neighbourhood Plan. It is understood that the applicant has submitted a formal complaint to the Council regarding this matter. The applicant has also raised concerns with regard to the delay in the adoption of the Council's Local Plan. Complaints have also been made regarding the content of the adopted Landscape Character Assessment. These matters do not relate to the Council's behaviour at appeal or indeed during the application, and have not directly caused the applicant to incur unnecessary cost at appeal.
5. The applicant has referred to the approval of an application at Hall Farm despite a lack of safe pedestrian access along the A631. It is also highly visible. The applicant states that this is a similar case and has not been determined in

a similar manner. However, I am not provided with the full details of this application, and I therefore cannot determine whether or not this represents a direct parallel with the appeal proposal. I therefore find no evidence of unreasonable behaviour in this regard.

6. The applicant has stated that the Council has not included 3 applications in the planning history section of the delegated report. These include the outline and reserved matters applications at the site to the north referred to in my decision and another application. However, the Council does refer to the original outline approval when describing the site access and therefore I am satisfied that it has had regard to that approval in considering the appeal application.
7. The applicant raises a concern that the Council refer to the appeal site as 'pasture'. The Council indicates that the site is pasture in its reasons for refusal. The Basettlaw Landscape Character Assessment (the LCA) seeks to protect areas of permanent pasture and the Council references this in its decision. Nonetheless, the applicant has provided information in respect of the use of the appeal site as part of the application referring to Stonegate Field as being in arable rotation for the last 50 years and that grazing had ceased in 2017. The application form also states that the use is 'arable'.
8. I note that the photographs provided with the applicant's Phase 1 Site Investigation indicate that the site is grassed. I accept that the site may have had the appearance of pasture around the time of the submission of the application in May 2021. As such, whilst at the time of my site visit it appeared to be in arable use, the information as to the precise condition of the appeal site at the time of the application is inconclusive. I therefore cannot be certain that the Council has demonstrated unreasonable behaviour in terms of referring to the appeal site as pasture. The Council does not refer to the appeal site as 'permanent pasture'.
9. The applicant also raises concern at the lack of action of the Council over the removal of hedges by local residents. This has little to do with the Council's behaviour during the application or appeal and I am therefore satisfied that it does not amount to unreasonable behaviour leading to unnecessary cost at appeal.
10. The applicant is also concerned that the Council has ignored its evidence, including photographs. The applicant's allegation in this respect is, in part, on the basis of a telephone call with the case officer. However, a lack of understanding of the issues or the evidence provided is not evident in the delegated report. Moreover, it is clear from the delegated report that the relevant policies and submitted information has been considered. Furthermore, whilst the applicant states that a site visit was not made, the Council contends that the case officer did visit the site prior to determining the application.
11. The applicant has questioned the Council's interpretation of the LCA. I accept that the LCA seeks to ensure that proposals conserve and reinforce the rural character of the Idle Lowlands Policy Zone by concentrating new development around the existing settlements of Harwell, Everton and Scaftworth. However, this statement does not indicate that all development around those settlements will be acceptable. Indeed, the Council is of the view, as am I, that the appeal proposal would in fact harm the rural character rather than reinforce or conserve it. In refusing the application for the reasons it did I am therefore satisfied that the Council has not incorrectly interpreted the LCA.

12. The applicant states that *'at no time previously has there been determination that noise/loss of privacy is material in this locale on account of access'*. I am not directed to which other developments that the applicant is referring to at this point, however I would note that each application is assessed on its own merits. Moreover, the effect on the living conditions of local residents is a material consideration. In this case an access is proposed adjacent to the rear boundaries of properties which currently back onto an open field. The Council has therefore correctly assessed the effect on living conditions, as they are required to do, through the policies of the LDF and the approach in the Framework. The Council has therefore not behaved unreasonably on this matter.

Conclusion

13. Having regard to the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Martinson

INSPECTOR