
Costs Decision

Site visit made on 24 January 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2023

Costs application in relation to Appeal Ref: APP/W4705/W/22/3311281 Land Adjacent to Brook House, Bradford Road, Bingley, Bradford BD16 1NE

- 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 Rob Christie for a full award of costs against City of Bradford Metropolitan District Council.
 - The appeal was against the refusal of planning permission for construction of three dwellings, comprising of one pair of semi-detached houses and one detached house with associated detached garage, vehicle parking, vehicle turning area and highways improvements.
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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 (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. PPG explains that unreasonable behaviour in the context of an application for an award of costs may be either:
 - procedural – relating to the process; or
 - substantive – relating to the issues arising from the merits of the appeal.
3. In considering the substantive matters, the applicant sets out a critique of the salient matters in dispute and considers that the Council's failure to submit a statement of case equates to a failure to provide any defence for the reason for refusal. In response, the Council explains that the Officer's report covers why permission was refused and adequately covers the points in the appellant's statement of case. The PPG advises behaviour that may give rise to a substantive award of costs including, amongst other things; the failure to produce evidence to substantiate each reason for refusal on appeal, vague, generalised, or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and not determining similar cases in a consistent manner.
4. It is not unreasonable for the Council to raise concerns about the impact of the proposed development on highway safety. This informed its decision given the increase in the number of dwellings and nature of the access arrangements. However, the Council's Officer report fails to provide background evidence or

justification for this including relevant development plan policy or specific/required standards to support their concerns whilst making inaccurate assertions about the proposal's impact. Additionally, there is evidence before me where the Council have determined previous schemes in an inconsistent manner as discussed further in my main decision. The Council's reason for refusal also explains that no improvements to the access are offered which is inaccurate as reflected in the description of development and plans as well as supporting information supplied at application stage.

5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in relation to matters concerning highway safety and that a partial award of costs is justified.
6. In considering the procedural matters, the applicant considers that the Council has failed to adhere to the appeal timeline, with the questionnaire being submitted several days late from the deadline of 1 December 2022. In response, the Council accept that there was a late submission of the questionnaire due to staff illness whereby the start letter was not forwarded onto the case officer. A reminder email was sent from the Planning Inspectorate on the 8 December 2022 and the Council responded the same day with the questionnaire. Given that the Council responded to the email in a quick and timely manner coupled with the short delay from the questionnaire deadline to receipt of the questionnaire, the Council has not acted unreasonably.
7. Whilst the Council's questionnaire confirmed that the Council intended to submit a statement of case, no statement of case had subsequently been submitted. Whilst I appreciate frustrations in relation to this matter, it is not unreasonable for the Council to rely on their Officer's report and accordingly, the Council has not acted unreasonably in this regard.
8. The Council have not provided a list of planning conditions in the event the appeal were to be allowed. I note that a reminder to supply the conditions was sent. However, it is not unreasonable for the Council to rely on conditions suggested by statutory consultees. Consequently, the Council has not acted unreasonably in this regard.

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 City of Bradford Metropolitan District Council shall pay to Mr Rob Christie the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred connected with matters related to highway safety, such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to City of Bradford Metropolitan 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.

N Teasdale

INSPECTOR