



Costs Decision

Site visit made on 25 September 2023

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2023

Costs application in relation to Appeal Ref: APP/E2734/W/23/3323566 The Haven, Dishforth, Thirsk YO7 3LP

- 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 J Rose and Miss M Watson for a partial award of costs against Harrogate Borough Council.
 - The appeal was against the refusal of planning permission for residential development for the creation of 3 building plots.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may only 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. Examples of substantive unreasonable behaviour set out in paragraph 046 include 'failure to provide evidence to substantiate each reason for refusal on appeal'.
3. The Council refused the planning application for four reasons. Reason for refusal 2 relates to the access, specifically the lack of adequate vehicular turning facilities for Plot 3 and the absence of pedestrian access to the dwellings. The Council acknowledged in its Statement of Case that it made an error as access is a matter reserved for future consideration and confirmed that it did not intend to pursue reason for refusal 2. Whilst I acknowledge that the Council sought to mitigate the error it, nevertheless, behaved unreasonably in this regard. Therefore, the key issue is whether the unreasonable behaviour has resulted in unnecessary or wasted expense in relation to reason for refusal 2.
4. Paragraph 032 of the PPG states that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. The proposal was refused on three other grounds and the applicants are not suggesting that the Council has behaved unreasonably with regards to those. Consequently, it would not have altered the outcome of the Council's overall decision or the necessity of the applicants to appeal their decision.
5. I note that the applicants have not produced any additional evidence relating to reason for refusal 2 as part of the appeal process. Indeed, the applicants

address the issue very succinctly in paragraphs 5.4.19 to 5.4.29 of their Statement of Case.

6. Whilst the applicants cost application sets out why it considers the Council's behaviour to be unreasonable; it fails to demonstrate how the Council's behaviour has led to unnecessary or wasted expense in accordance with paragraph 032 of the PPG.
7. Consequently, whilst I have concluded that the Council has behaved unreasonably, I am not persuaded that this has led to unnecessary or wasted expense on the evidence before me in this particular case.

Conclusion

8. In conclusion, whilst I have found that the Council has behaved unreasonably, this has not led to unnecessary or wasted expense as described in the Planning Practice Guidance. The application cannot, therefore, succeed.

Caroline Mulloy

Inspector