



Costs Decision

Site visit made on 24 October 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Costs application in relation to Appeal Ref: APP/V2723/W/23/3317682 Land East of Bolton Road, Scorton

- 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 & Mrs Booth & Wharfedale Homes for a partial award of costs against Richmondshire District Council.
 - The appeal was against the refusal of planning permission for an outline application for residential development.
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Decision

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

Preliminary Matters

2. On 1 April 2023 North Yorkshire Council was created and is now the Local Planning Authority (LPA) for the area previously covered by Richmondshire District Council. The award is necessarily made against its replacement as LPA, North Yorkshire Council.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, 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. Unreasonable behaviour may be procedural and/or substantive.
4. In summary, the applicants argue that the Council has acted unreasonably by including a reason for refusal relating to highway safety without objective evidence to substantiate this.
5. Reason for refusal three relates to a concern about highway safety due to the conflict that would be caused by the proposed access adjacent to the primary school and the associated vehicle and pedestrian movements.
6. General assertions have been made about the safety of the proposed access due to its position close to the school entrance and the additional traffic movements that would result in unsafe arrangements for pedestrians including younger children. This appears to be mainly based on local knowledge and understanding of traffic issues in the area. Local knowledge can be an important consideration, but alleged harm still requires to be substantiated by clear evidence. The Highway Authority did not raise any concerns regarding the safety of road users or pedestrians based on the location of the proposed access and the vehicles movements likely to be generated and was satisfied that appropriate visibility splays could be achieved.

7. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should not have reasonably been refused for reasons relating to highway safety. Reason for refusal three therefore constitutes unreasonable behaviour contrary to the guidance in the PPG and the applicants have been faced with the unnecessary expense of addressing this matter.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the third reason for refusal relating to highway safety and a partial award of costs is therefore warranted.

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 North Yorkshire Council shall pay to Mr & Mrs Booth & Wharfedale Homes, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred relating to reason for refusal three relating to highway safety; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicants are now invited to submit to North Yorkshire 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.

F Wilkinson

INSPECTOR