



Costs Decision

Site visit made on 9 April 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th April 2024

Costs application in relation to Appeal Ref: APP/C2741/W/23/3332637 Home Lea, Elvington Lane, Elvington, York YO41 4AX

- 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 City of York Council for a full award of costs against Mr Shaun Thomas of Elvington Residential Park.
- The appeal was against the refusal of planning permission for formation of access road to caravan site to rear of Home Lea and planting of trees and hedges along east and southern boundaries.

Decision

1. The application for an award of costs is refused.

Reasons

2. 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.
3. In summary, the Council argues that the appellant has acted unreasonably in pursuing the appeal as the proposed access road was substantively the subject of an enforcement appeal¹ that was dismissed in 2021 due to harm to the openness of the Green Belt and a conflict with its purposes. The Council contends that there has been no material change to national or local planning policy relating to the Green Belt since that appeal decision. As such, the appeal could be seen as not standing a reasonable chance of success and was therefore unnecessary. The appellant disputes that they have acted unreasonably.
4. The PPG states that an appellant is at risk of an award of costs if the appeal had no reasonable prospect of succeeding. This may occur when it follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period.
5. It is the case that the proposal is very similar to the road that was the subject of the dismissed appeal and in the same general location. However, the application that is the subject of this current appeal is supported by additional information by way of a Landscape and Visual Appraisal (LVA) and a Transport Note. The Transport Note quantifies the volume of traffic that would use the

¹ Appeal reference APP/C2741/C/20/3260883

access road as the previous Inspector found that it had been the vehicular traffic rather than the road itself that would reduce openness. The LVA assesses the proposal's landscape and visual effects, including with mitigation.

6. Based on the evidence that has been submitted, there has been no substantive change in the planning policy context between the two appeals. However, the new documents did seek to provide additional information and assessment to address the previous Inspector's concerns about the effect of the development on the openness of the Green Belt and its purposes. Consequently, while I have come to the same conclusion as the previous Inspector that the proposal would be inappropriate development in the Green Belt, in my view the appellant has not behaved unreasonably in pursuing an appeal in the context of this additional information.
7. For these reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

F Wilkinson

INSPECTOR