



Costs Decision

Site visit made on 30 April 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th May 2024

Costs application in relation to Appeal Ref: APP/E2001/W/23/3333524 Land adjacent to 11 Park Avenue, Brandesburton YO25 8QR

- 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 A Ravis for a full award of costs against East Riding of Yorkshire Council.
 - The appeal was against the refusal of outline planning permission for the erection of a pair of semi-detached dwellings.
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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. The applicant argues that the Council has acted unreasonably as the applicable areas of its planning assessment as set out in the officer report appear on balance to indicate that the proposal is acceptable in principle, yet planning permission was refused. In addition, the decision to refuse permission for the proposal does not support the officer report and statutory consultee responses which offered support to the proposal. Consequently, the refusal of permission was without sound reasons and is therefore unreasonable. The Council disputes that it has acted unreasonably.
4. It is unfortunate that the summary and recommendations section of the officer report states that the application is recommended for approval with conditions. However, when the rest of the officer report is considered, and is read alongside the decision notice, the position of the case officer and the Council is clear, that planning permission should be refused because of the effect of the proposal on the character and appearance of the area. The absence of objection from statutory consultees does not in itself render a scheme acceptable.
5. The planning application was submitted in outline, with all matters other than access and layout reserved for future consideration. The officer report accepts that the principle of the development would be acceptable in the location proposed. While appearance, landscaping and scale were reserved for future consideration, the proposed layout of the dwellings on the site was under consideration. This was set out in the officer report where it states that whilst it

is not possible to fully consider the design at this stage, the impact that the proposal's layout would have on the surrounding area can be assessed.

6. It is clear from the officer report that the layout proposed was not considered to be acceptable due to its effect on the character and appearance of the area. Clear reasons were given for this in both the Council's officer report and decision notice.
7. The reason for refusal on the decision notice is precise, specific and relevant to the application. It also clearly states the policy of the 2016 adopted East Riding Local Plan 2012 – 2029 Strategy Document (ERLP SD) that the proposed development would conflict with. This reason has been substantiated in the Council's officer report.
8. Policy ENV1 of the ERLP SD specifically references layout in point 1 of part A as a factor that will be considered when assessing whether a development proposal would contribute to safeguarding and respecting the diverse character and appearance of the area. Within this policy context, regardless of the application being outline, in my view the Council has not acted unreasonably by considering the effects of the proposed layout on the character and appearance of the area.
9. The PPG makes it clear that a local planning authority is at risk of an award of costs if it has prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations. However, in this case, the Council had reasonable concerns about the impact of the proposed development which justified its decision, and these are based on a conflict with the development plan and the National Planning Policy Framework.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

F Wilkinson

INSPECTOR