



Costs Decision

Site visit made on 21 May 2024

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

**Costs application in relation to Appeal Ref: APP/A3010/W/23/3333264
Land adjacent to Meadow House, Caves Lane, Walkeringham, Doncaster,
DN10 4LS**

- 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 W Marzano for a full award of costs against Bassetlaw District Council.
 - The appeal was against the refusal of planning permission for a net zero carbon detached 3-bedroom dwelling, detached garage and new vehicular access.
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Decision

1. A partial award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the PPG) advises that the aim of the costs regime is to "*encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay*".
3. The PPG goes on to advise that costs may be awarded against a party who has behaved unreasonably and where this behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The general principle embodied within the PPG is that the parties involved should normally meet their own expenses. Examples of unreasonable behaviour by planning authorities include:
 - A failure to produce evidence to substantiate a reason for refusal on appeal, and
 - The use of vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
4. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
5. The gist of the application is that the Council behaved unreasonably by refusing planning permission. Moreover, the reasons were unsubstantiated and relied in large part on out-of-date development plan policies. In relation to the third reason for refusal, the applicant argues that the Highway Authority did not demonstrate there would be an unacceptable impact on highway safety.

Neither the Council nor Highway Authority has responded to the Costs Application.

6. While the Council accepted that Policy CS1 was out-of-date, the first reason for refusal relies on Policy 1 of the Walkeringham Neighbourhood Plan. While I have come to a different conclusion to the Council on the datedness of this policy, that does not make the Council's position unreasonable. Had the Applicant referred me to recent appeal decisions where other Inspectors had reached similar findings on Policy 1, then my conclusions may well have been different.
7. I am less satisfied with the second reason for refusal which alleged that the proposed use of *"grey concrete double tiles, timber cladding and large glazed gables, would be at odds with the traditional form of building typically found in Walkeringham"*. No analysis or supporting information was provided by the Council at either the application or appeal stage to substantiate these concerns, they therefore amount to little more than assertion. The design concerns were comprehensively rebutted in the Applicant's Statement of Case.
8. The Council therefore failed to produce evidence to substantiate a reason for refusal on appeal, and used vague, generalised or inaccurate assertions about a proposal's impact, unsupported by any objective analysis. Nonetheless, the Appellant's response to the second reason for refusal was relatively straightforward. It has not involved extra assessment, or indeed anything beyond a short rebuttal within other comments made on the Council's position. In effect the appellant has quickly and easily rebutted the Council's position without wasting expenditure.
9. Turning to the Council's highway safety reason for refusal, it is important to recognise that within the overall legal framework of section 38(6) of the Town and Country Planning Act 1990, it is as much for the Council to make out its case as to why planning permission should be refused as for the Appellant to make out a case that it should be granted. While a Highway Authority may of course seek additional information during the determination period, it will be incumbent on it to show that any requests were reasonable and necessary. Should the information not be forthcoming, the legal framework under section 38(6) still requires the Council, and by extension the Highway Authority, to make out its case why permission should be refused.
10. The appeal scheme was for a single dwelling which by any measure would generate only a very small number of additional traffic movements. In my view, a speed survey for a single dwelling will only be justified in a very small number of cases where there are genuine and demonstrable highway safety concerns, for example, significant uncertainty regarding driven speeds and/or the achievable splays which cannot be resolved through on-site observations. Speed surveys and other costly forms of traffic data should not be requested as a matter of course to gather information that could and should be collected through a site visit.
11. The access arrangements including a range of visibility splays were clearly shown on the submitted layout plan. While I accept that the plan shows a shorter splay to the east, it is immediately apparent to someone conducting a site visit, that driven speeds are significantly lower than 60mph. Accordingly, the request for a speed survey in this instance was patently disproportionate bearing in mind the proposal was for a single dwelling.

12. The Highway Authority did not submit an appeal statement, or for that matter a response to this costs application. I therefore find that it failed to substantiate its reason for refusal on appeal. This led to the waste and unnecessary expense connected to the Applicant having to respond to the third reason for refusal including the commissioning of a speed survey.
13. Accordingly, I conclude that the unreasonable behaviour has been demonstrated in relation to highway safety matters which resulted in wasted expense. I therefore conclude that a partial award of costs is justified.

Costs Order

14. 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 Bassetlaw District Council shall pay to Mr W Marzano, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the highway safety reason for refusal.
15. The applicant is now invited to submit to Bassetlaw 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.

D M Young

INSPECTOR