



Costs Decision

Hearing (Virtual) held on 10 December 2024

Site visit made on 11 December 2024

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 31 December 2024

Costs application in relation to Appeal Ref: APP/F4410/W/24/3349238 Cherry Lane Tickhill Garden Centre, Bawtry Road, Tickhill, Doncaster, DN11 9EX

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by QD Commercial Holdings Group for an award of costs against City of Doncaster Council.
 - The appeal was against the refusal of planning permission for provision of concrete yard for goods provisions (retrospective) and alteration of the existing access.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application centres on the applicant's claim that the Council: (a) failed to co-operate; (b) refused planning permission on a planning ground capable of being dealt with by condition(s); (c) introduced fresh and substantial evidence at a late stage; (d) made inaccurate assertions about the proposal's impact, not supported by objective analysis; and (e) failed to determine similar cases in a consistent manner.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they behave in such ways.
5. Regarding matters (a) and the access/highway safety aspects of matter (b), it will be evident from my decision that I disagree with the Council regarding the enforceability of a Servicing Management Plan in this case. Nevertheless, I see evidence in the Planning Case Officer's Delegation Report of the Council's rationale on this matter, and consider that they were entitled to exercise their planning judgement on it and not pursue further information from the applicant.
6. Regarding the character and appearance/trees aspects of matter (b), it will be evident from my decision that I disagree with the Council regarding the degree of harm that would occur. Nevertheless, I see articulation in the Planning Case Officer's Delegation Report, and the Council's Appeal Statement of Case of the Council's rationale on this second main issue, and consider that they were

entitled to exercise their planning judgement on it, including not agreeing to a tree replacement condition.

7. In relation to matters (c) and the highway accidents data aspect of matter (d), I find as follows. It would have been helpful if the Council had articulated their citation of Crashmap data and associated planning judgement at the Delegation Report stage, to respond to the Crashmap data analysis in the applicant's highway consultant's Proposed Alterations analysis dated 21 July 2023.
8. Regarding the access and egress analysis aspect of matter (d), I see evidence in the Planning Case Officer's Delegation Report, and the Council's Appeal Statement of Case of their rationale on this matter, and consider that they were entitled to exercise their planning judgement on it.
9. In relation to the baseline lane over-running analysis aspect of matter (d), it would have been helpful if the Council had articulated planning judgement on this at the Delegation Report stage and Appeal Statement of Case stage, to respond to the applicant's highway submissions on this.
10. Regarding matter (e), the earlier 17/02471/FUL proposal for a wider access than in the appeal scheme was of limited equivalence to the current case. Also, the 18/02169/FUL scheme permission including its vehicle weight restriction planning condition, and the Council's stated rationale behind this is relevant to consideration of the current case. Moreover, each case has its own circumstances and evidence, and the Council were entitled to exercise their planning judgement, and determine the current appeal scheme application on this case's own merits.
11. To conclude, I find as follows. In relation to matters (a) and (b) the Council were entitled to exercise their planning judgement and not pursue further information, and so did not behave unreasonably. Regarding matter (c), and the highway accidents data aspect of matter (d), the lack of Crashmap data analysis by the Council at Delegation Report stage was unreasonable. Regarding the access and egress analysis aspect of matter (d), the Council were entitled to exercise their planning judgement on this, and did not behave unreasonably. In relation to the baseline lane over-running analysis aspect of matter (d), the lack of analysis of this by the Council at Delegation Report and Appeal Statement of Case stages was unreasonable. And regarding matter (e), the Council's decision making on the current appeal scheme was not flawed by inconsistency with earlier cases.
12. However, that said, in relation to unreasonableness in matter (c) and the highway accidents data aspect of matter (d), I find as follows. The Council's Appeal Statement of Case, which included its analysis of Crashmap data, mainly amplified their core concerns regarding suitability of access and highway safety, that had been articulated by the Council earlier in their Delegation Report and first reason for refusal. Thus, the Council's Appeal Statement did not fundamentally alter the core arguments about the first main issue in this appeal case. As such, it is not clear that had Council refrained from expanding on its highway safety concerns, the core appeal arguments would have been substantially different in scope.
13. Furthermore, on the evidence before me, I am not convinced that, as a result of either i) the timing of the Council's articulation of Crashmap data analysis, or ii) the lack of baseline lane over-running analysis by the Council in relation

to this aspect of matter (d), a discretely identifiable additional expense was incurred, over and above that of the preparations for the hearing that the appellant and their highway and transport consultant would have undertaken anyway.

Conclusion

14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated in relation to matters (a) to (e). Accordingly, the application for costs fails.

William Cooper

INSPECTOR