



Costs Decision

Site visit made on 3 December 2024

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Costs application in relation to Appeal A: APP/E2001/W/24/3348285

Land North Of Woodcock Road, Flamborough, East Riding Of Yorkshire, YO15 1LJ

- 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 Valant Homes Ltd for a full award of costs against East Riding of Yorkshire Council.
 - The appeal was against the refusal of grant subject to conditions of planning permission for the erection of 52 dwellings and associated infrastructure.
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Appeal B: APP/E2001/W/24/3348305

Land North Of Woodcock Road, Flamborough, East Riding of Yorkshire, YO15 1LJ

- 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 Valant Homes Ltd for a full award of costs against East Riding of Yorkshire Council.
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Decision

Appeal A

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

Appeal B

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

Reasons

3. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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.
4. Unreasonable behaviour on the part of a local planning authority may include it making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, preventing or delaying development which should clearly be permitted, having regards to its accordance with the development plan, national policy and any other material considerations, and not determining similar cases in a consistent manner.

5. The appellant submitted three appeals relating to the site. These are the subject of a single Decision Letter, and as explained in that Decision, I dealt with each appeal on its individual merits but to avoid duplication I considered them in a single document. I will adopt the same approach here. The appellant submitted applications for costs in relation to two of the appeals as set out above. The costs applications are made on the basis that the Council has acted unreasonably in refusing planning permission. There is an extensive planning history and the appeals relate to variations in the heights and accommodation in the roof spaces of a number of dwellings which already have planning permission,
6. The Council, or more specifically its Planning Committee, refused the planning applications contrary to Officer advice. Whilst a planning committee is entitled to make decisions that are contrary to the officer recommendation, there is an expectation that where this occurs it should show reasonable planning grounds for taking a contrary decision and produce sound, substantive and defensible evidence on appeal to support the decision in all respects.
7. The Council in considering the application 22/0653/STPLF had accepted the impact on plots 6, 7, 10, 11 and 12 as it only refused the application in respect of the impact of plots 5, 8 and 9. In the previous appeal (APP/E2001/W/23/3315093), the Inspector specifically considered the impact of the houses on plots 5, 8 and 9 and found that there was no harm to the living conditions of neighbouring occupants. The only harm was found in relation to the houses on plots 13 and 14 and so, by inference the Inspector had also found the effect of the houses on the other plots to be acceptable.
8. The applicant contends that permission should have been granted for both applications having regard to the development plan and other material considerations and the Inspector's decision indicating that it is acceptable. The applicant contends that the Council provided no proper reasons for refusal for deviating from the officer recommendation for approval.
9. The Council responds that before reaching a decision councillors undertook a site visit, where they viewed the site from both the street and one of the nearest affected neighbours at 15 Woodcock Road. The site was viewed from within the garden and a rear bedroom window, which was not available to the planning officer at the time of the site visit. It was at this vantage point that the full impact of the development could be assessed. It is acknowledged that councillors are not bound to accept the recommendations of officers and are entitled to come to a contrary decision based on their site visit, personal local knowledge and taking on board the views of the local community. The Council contends that the Inspector in making their decision on the previous appeal did not benefit from accessing this vantage point, therefore it is reasonable for Members to have reached an alternative conclusion. It is the Council's view that the impact of plots 6, 7, 10, 11 and 12 have never been assessed by an Inspector and therefore are not subject to the appeal decision indicating that they are acceptable.
10. The Council refused both the applications on a single reason, that houses as built cause an unacceptable level of overdominance, overlooking and an overbearing impact on properties along Woodcock Road which would have a detrimental impact on the living conditions of these residents as a result of loss of privacy and sense of enclosure. Without repeating the appeal decision, I concluded that the difference in heights as built for plots 5, 6, 7, 8, 9, 10, 11 and 12 compared with that already

permitted would not cause harm to the living conditions of the occupiers of neighbouring properties on Woodcock Road regarding outlook, privacy and daylight to the extent that would justify withholding permission in terms of policy.

11. At the time the previous Inspector visited the site plots 5, 8 and 9 were near to completion and therefore it was possible to consider the impact of the development on neighbouring properties, in particular 15 Woodcock Road, which is closest to plot 5. There were no differences between the heights of plots 5, 8 and 9 as built and those considered by the Inspector as part of the previous appeal.
12. Although the minutes of the planning committee's discussion of the application on 30 May 2024 have been submitted, they only confirm that the application was subject to a site visit, outline additional comments submitted and note the reasons for refusal. It seems to me that the decision of members was based primarily on the impact of the development when viewed from the bedroom window of 15 Woodcock Road. On my site visit I also viewed the development from the window of 15 Woodcock Road. I observed that the new dwellings as built are prominent when viewed from the properties on Woodcock Road. Whilst the Committee members reached their judgement, in my view the increased height as built in comparison with that approved would not cause harm to the living conditions of the occupiers of neighbouring properties.
13. The Council has not sufficiently explained why it departed from its previous decision Ref 22/02653/STPLF and the decision of the Inspector in the previous appeal. As established in caselaw consistency is important in securing public confidence in the operation of the planning system.
14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified in relation to both appeals.

Costs Order

15. 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 East Riding of Yorkshire Council shall pay Valant Homes, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
16. The applicant is now invited to submit to East Riding of 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.

C Skelly

INSPECTOR