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## Costs Decisions

Site visit made on 16 January 2025

by **S Brook BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

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### **Costs applications A and B in relation to Appeal Ref: APP/K0940/W/24/3350753 Open field known as The Grammar Field, between Croftside and Greenbank Lane, Cartmel LA11 7SG**

- 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).
  - Costs application A is made by Mrs Lily Joyce for a partial award of costs against Westmorland and Furness Council. Costs application B is made by Westmorland and Furness Council for a partial award of costs against Mrs Lily Joyce.
  - The appeal was against the refusal of planning permission for the construction of three bed dormer bungalow with separate garage and treatment plant.
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### **Decision**

1. Costs application A is refused.
2. Costs application B is refused.

### **Costs Application A**

#### **Reasons**

1. 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.
2. The PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. This could include the failure to produce evidence to substantiate each reason for refusal on appeal.
3. The applicant considers that the Council has behaved unreasonably by not providing any justification for the third refusal reason, relating to highway safety, on the basis that this refusal reason was applied without reference to any formal response from the Highway Authority, and without Officers having any specialised highway knowledge themselves.
4. The proposed development was a re-submission of a withdrawn application for a similar proposal. In its response to this earlier proposal, the Highway Authority had requested further information. The applicant prepared a speed survey to support the re-submitted application. However, it appears that this document did not download to the Council via the Planning Portal as part of the re-submitted application and so while the results of the speed survey were referenced in the

Design and Access Statement, the speed survey itself was not available to the Council at the planning application stage.

5. The Council's Officer Report includes a section entitled 'highway impact'. This found the access to the proposed development to be substandard, based on a consideration of the achievable visibility splays in the context of the adjacent road network. Croftside is subject to the National Speed Limit. While this conclusion may have been reached in the absence of any formal response from the Highway Authority, this in itself does not demonstrate that the refusal reason was not justified. Guidance exists at the national level in respect to visibility splays and the Council would have been aware of the comments provided by the Highway Authority on the previously withdrawn application. The Council as the Local Planning Authority (LPA), and not the Highway Authority, is the decision maker. As the speed survey did not form part of the documentation provided to the Council as part of the application for planning permission, the Council's inclusion of the third refusal reason was sufficiently reasoned and justified.
6. The National Planning Policy Framework (the Framework) requires that LPA's approach decision making in a positive way and work pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. However, this needs to be balanced against the requirement to make timely decisions. While I note the appellant's offer to provide the speed survey, this was at a late stage, and so accepting it, would have delayed the Council making a timely decision on an application that was to be refused in any event, for other reasons.
7. Ultimately, the appellant is responsible for ensuring that all documentation that he seeks to rely on to support a planning application is provided to the Council. While the failure of documents to transfer to the Council was unfortunate, the Council has not behaved unreasonably by determining the application in accordance with the submitted documentation.

### **Costs Application A – Conclusion**

8. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated and that an award of costs is not justified.

### **Costs Application B**

#### **Reasons**

9. The PPG states that appellants are at risk of an award of costs if they behave unreasonably with respect to procedural matters. Examples include providing information that is shown to be manifestly inaccurate or untrue.
10. The Council considers that the appellant has falsely claimed that a speed survey was submitted with the application and that the LPA failed to assess the survey. The Council considers that the appellant has sought to gain financial compensation on the basis of the false claim by stating that the LPA acted unreasonably by not considering the speed survey.
11. While the appellant's costs application states at section 1.3 that the application included the results of the speed survey, it is clarified at section 1.4 that the speed survey documents did not transfer to the Council via the Planning Portal as

assumed, and section 1.5 refers to this omission of the speed survey and advises that this was an oversight that they sought to correct at a later stage. Similar comments are made in the Appellant's Statement of Case. These comments do not suggest to me that the appellant is falsely claiming that the speed survey was submitted with the application, or that the LPA failed to assess the survey.

12. As set out above, the appellant's grounds for seeking costs relate to whether the Council's inclusion of a refusal reason based on highway safety was justified, given that the Highway Authority had not recommended refusal of the proposal and having alleged that the case officer would have no specialised highway knowledge. I have concluded separately on this matter above.

### **Costs Application B – Conclusion**

13. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense, has not occurred and an award of costs is not justified.

*S Brook*

INSPECTOR