



Costs Decision

Site visit made on 21 January 2025

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2025

Costs application in relation to Appeal Ref: APP/C2741/W/24/3350098 40 Fordlands Road, York YO19 4QG

- 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 Ms Sarah Poole for a full award of costs against City of York Council.
 - The appeal was against the refusal of planning permission for erection of 4no. detached dwellings with associated access, parking and landscaping.
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Decision

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

Reasons

2. 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.
3. The appellant submits that the Council has behaved unreasonably in advising the them to undertake extensive work to address issues on the planning application, only to then refuse the application. I have some sympathy with the appellant in that they undertook extensive work as part of the planning application process only for the Council to identify fundamental concerns on the Sequential Test late in the application process.
4. Although behaviour and actions at the time of the planning application can be taken into account, costs can only be awarded in relation to unnecessary or wasted expense in the appeal process. It is a matter of fact that the Council informed the appellant of its concerns prior to refusing the application. I have also concluded that the Council's concerns in respect of the sequential test are well-founded. Any unreasonable behaviour on behalf of the Council therefore relates to the application process rather than the appeal, and an award for costs on this issue cannot therefore be supported.
5. The Council's second reason for refusal relates to the effect of a bin storage area on the streetscene. However, it is clear that this is based on a misunderstanding of the scheme, as the bins would only be present in this location on collection day. The appellant was not given the opportunity to respond on this issue prior to it being used as a reason for refusal. Had they been given the opportunity to do so, they would have been able to clarify the Council's misunderstanding. Instead, the Council's reason for refusal on this issue is based on inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis. This represents unreasonable behaviour on behalf of the Council and the appellant has

been put to unnecessary expense in rebutting this reason for refusal. An award of costs in respect of the second reason for refusal is therefore warranted.

Costs Order

6. 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 City of York Council shall pay to Ms Sarah Poole, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the Council's second reason for refusal relating to overdevelopment and waste collection; such costs to be assessed in the Senior Courts Costs Office if not agreed.
7. The applicant is now invited to submit to City of York 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.

David Cross

INSPECTOR