



Costs Decision

Site visit made on 21 November 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 26th March 2025

Costs application in relation to Appeal Ref: APP/A2335/W/24/3349934 66 Kellet Road, Carnforth Lancashire, LA5 9LP

- 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 Matthew Fox for a full award of costs against Lancaster City Council.
 - The appeal was against the refusal of planning permission for proposed new dwelling and new associated vehicular access.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. 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. Unreasonable behaviour in the context of an application for an award of costs may either be procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
3. The applicant claims that they had to submit an appeal to assess whether the Council had determined the application correctly. They state that a lack of communication and transparency, and evidence being disregarded to justify the proposal, amount to unreasonable behaviour by the Council.
4. At the time that the appeal was submitted, the officer report had not been seen by the appellant and was not on the Council's website. The Council has said this was the result of a computer fault, and it is regrettable that a copy of the report was not requested. Despite this, the Council had set out in the decision notice, which was dated and signed, clear reasons for refusal, which they had substantiated with relevant policies from the development plan and the National Planning Policy Framework.
5. The applicant claims that the Council did not fully consider the sequential test for flooding, or fully regard additional information provided on sites no longer available. This suggests there was a lack of clarity regarding the requirements, and communication between the parties may not have been as helpful as the applicant required. Notwithstanding this, the site has a medium risk of surface water flooding, and, unfortunately, land ownership, viability and site location do not exempt the need for a sequential test.

6. The applicant refers to the Council not consulting on revised plans, and a delay in doing a re-consultation. However, this was only a matter of weeks and there is no evidence that the necessary procedures were not followed, and that relevant consultation was not carried out. Moreover, it would have not led to a different decision.
7. Other examples, including where further information was provided, are cited by the applicant as not receiving a necessary response and opportunity to provide mitigation. Whilst this may have been frustrating to the applicant, it is at the discretion of the Council whether to accept any additional information. Although every effort should be made for informal negotiations between the parties, this is not always possible. I understand that this was disappointing to the applicant, but it does not demonstrate that the Council has been unreasonable.
8. I appreciate that the applicant does not agree with the Council's consideration of the application and the outcome. However, I am satisfied that the decision overall was reached properly, planning permission should not have been granted and an appeal was therefore likely.
9. I therefore find that unreasonable behaviour, resulting in unnecessary or wasted expense as described in the PPG, has not been demonstrated.

M J Francis

INSPECTOR