



Costs Decision

Hearing held on 26 March 2025

Site visit made on 25 March 2025

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Costs application in relation to Appeal Ref: APP/U2750/W/24/3354268

Land off Wandales Road, Burniston, Scarborough, North Yorkshire, YO13 0HD

- 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 Richard Roberts Ltd for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of outline planning permission for the erection of 9 No. residential dwellings.
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Decision

1. The application for an 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.
3. The applicant has identified various matters which, in their view, constitute unreasonable behaviour on behalf of the Council. Firstly, it is alleged that Council has been inconsistent in its application of Local Plan policy, specifically Policy HC3.
4. In support of their case, the applicant has referred to an appeal in Filey¹. From reading the decision letter it appears that the Filey scheme had originally been for 10 units. During the application, it was reduced to 9, to address other concerns raised by the Council. Given the circumstances, the Inspector found no evidence that manipulation had taken place.
5. In refusing permission for the current appeal, the Council found that manipulation had taken place, but the circumstances were very different to that of the Filey case. Whilst I came to a different overall conclusion, I find no evidence of unreasonable behaviour resulting from inconsistent application of Policy HC3.
6. The applicant also alleges that the Council failed to take the landowner's Statement of Truth at face value, and therefore misapplied Policy HC3.
7. It is clear from the appeal submissions that the Council took the Statement of Truth into account, alongside other factors including the previous application. In carrying out the planning balance, the Council found that the personal circumstances set out

¹ Appeal ref APP/U2750/W/24/3337800

in the Statement were outweighed for reasons which they have explained. The Council's analysis was reasonable. I came to a different view, but the Statement of Truth does not fully explain the reasons for the proposed development, and further exploration was required at the hearing.

8. The previous application on a larger area of the site, (ref. 20/00840/OL), was clearly an important consideration for the Council in its determination of the application. The nature of that scheme, which was for 16 units of age restricted accommodation, is mentioned in the delegated report, which also notes that planning permission was never granted due to a failure to complete the requisite s106 agreement.
9. The current scheme may be supported by more detailed technical information, but it is clear from the information provided that the technical reports provided with the previous application were considered acceptable at the time. I have no doubt that the Council were fully aware of the differences between the schemes. These matters do not support the allegation that Policy HC3 has been misapplied.
10. The Council provided valid reasons for its decision, including its application of Policy HC3. I came to a different view, but that was a matter of planning judgement, and the case was not clear cut. Unreasonable behaviour in relation to the application of policy has not been demonstrated.
11. The costs regime is intended to support a well-functioning appeal system and encourage proper use of the right to appeal. The PPG confirms that costs cannot be claimed for the period during the determination of the planning application, but it also notes that behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
12. In this case, the applicant suggests that unreasonable behaviour occurred in the form of delays and lack of cooperation at the validation stage, including removing the scheme from public access, and 'resetting the clock' to allow for re-consultation.
13. From the evidence provided it appears that the validation date was changed several times, following the submission of additional information following discussions with the Council. This included a revised location plan and corrected ownership certificate, which were necessary to meet legal and procedural requirements. In addition, the scheme was amended to remove the area of off-site open space, a significant change which was necessary to avoid a reason for refusal. This required re-consultation to make statutory consultees and interested parties aware of the revisions and give the opportunity to comment.
14. Dealing with these changes and additional information resulted in a longer determination period, and I can appreciate that this well have been frustrating. However, it seems clear that the Council engaged with the applicants during the course of the application, with meetings held between them. From the information provided it seems that key concerns about the scheme were raised, including the position of the red line boundary, with advice as to how those concerns could be addressed.
15. The application may have had a somewhat convoluted and lengthy journey from initial submission to decision, and there appears to have been some disagreement over the description of development. However, the case is not a straightforward

one, and there were a number of issues that needed to be addressed. Having reviewed the submissions of both parties, I find no evidence of lack of cooperation or deliberate or unnecessary delays on the part of the Council.

16. I appreciate that the length of the application process, and the subsequent appeal, will have had financial repercussions for the applicant. However, a successful award of costs requires evidence of unreasonable behaviour that has caused unnecessary or wasted expense at the appeal stage. In this case, unreasonable behaviour as described by the PPG has not been demonstrated. The application for costs is therefore refused.

R Morgan

INSPECTOR