



Costs Decision

Site visit made on 27 February 2025

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th May 2025

Costs application in relation to Appeal Ref: APP/B2355/W/24/3356090

Land off Fieldfare Way, Bacup, Rossendale OL13 9PP

- 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 McDermott Homes for a partial award of costs against Rossendale Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 71 no. dwellings with associated works including car parking, landscaping, open space and pumping station.
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Decision

1. The costs application is allowed and partial costs are awarded.

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 application for costs is made on substantive grounds. It is made partially in respect of the evidence of the Council relating to their refusal grounds regarding highways and biodiversity net gain matters.
4. The claimant states that overall, the appeal proposal is clearly in accordance with relevant planning policies in the Rossendale Local Plan (2021) and the Framework and planning permission should have been granted without delay. They state that the refusal of planning permission by the Council has resulted in delay and additional and/or wasted costs for the appellant.
5. The evidence indicates that the decision was made by the Planning Committee against Officer recommendation. There was nothing in principle unreasonable about taking such a course of action.
6. However, whilst I have been supplied with the minutes of the committee meeting, they are very limited in detail and do not provide any significant detail as to how the decision was arrived at.
7. The first reason for refusal concludes that the development would have an unacceptable impact on highway safety, and the cumulative impact of the additional traffic on the road network would be severe. However, the Local Highway Authority had earlier in May 2024 advised the Council that the proposed development would not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site subject to conditions.

8. Nothing of substance has been put forward which could reasonably justify a position opposite to that of the Local Highway Authority. Although the evidence indicates that members were relying on their own detailed knowledge of the local area more specific and evidenced reasons for coming to that conclusion would need to have been put forward. This has not happened.
9. The second reason for refusal stated that the development would cause harm to biodiversity on site due to the loss of existing habitats and would fail to provide adequate compensatory provision or an adequate net gain in biodiversity. However, that matter has been addressed by the appellant and the detailed position of the Council has not been clearly substantiated or evidenced either within the minutes or any subsequent evidence of the Council.
10. Unreasonable behaviour with respect to the substance of the matter under appeal is therefore evidenced and a partial award of costs is therefore justified.

Conclusion

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the first two grounds of refusal of the Council and a partial award of costs is therefore warranted.

Costs Order

12. 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 Rossendale Borough Council shall pay to McDermott Homes the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to refusal reasons one and two; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Rossendale Borough 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.

T Burnham

INSPECTOR