



Costs Decision

Site visit made on 6 May 2025

by John Felgate BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2025

Costs application in relation to Appeal Ref: APP/D0515/W/24/3354821 Land at Low Road, Elm, Cambridgeshire

- 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 Fenland District Council against Mr and Mrs Clarke for a full award of costs.
 - The appeal was against the refusal of planning permission for residential development for up to 2 x dwellings with matters committed in respect of access only.
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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. The Planning Practice Guidance (PPG) advises that costs may only 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. In the present case, the appellants in their appeal statement made reference to a traffic speed survey, which they had commissioned. Attached to the appeal statement were various documents relating to the survey, including correspondence with the highways officer at Cambridgeshire County Council, but not the actual survey itself.
4. It might have been more helpful if the survey data had been submitted by the appellants at the time of lodging their appeal, on 31 October 2024, because this would have enabled the Inspector and other parties, including FDC, to directly examine the information within it, rather than relying on the highways officer's comments. However, the choice of material to submit to support their case is primarily a matter for the parties themselves. In this case, the survey information had not been disputed, and the appellants had no reason at that stage to expect that it would be. Their decision not to submit the survey with the initial appeal documents was therefore not unreasonable.
5. Where one party in an appeal wishes to seek further information from the other, it is open to them to request it directly from that party, and in such cases parties are expected to cooperate. However, in this case there is no evidence of any such request having been made until some time later, in December 2024. The date of that request is unknown, but in any event, it appears that the survey was provided to the Council by the appellants on or around 17 December 2024. I appreciate that this was shortly before Christmas, but nevertheless, it seems to me that this would

have allowed a reasonable amount of time for the Council to take the information into account in their response which was due by 10 January 2025. Furthermore, the survey had been provided to CCC in full in September 2024, and it would have been reasonable to expect that the Council could also have obtained a copy from that source in the meantime, if necessary. I see no evidence that the appellants withheld or delayed the provision of the survey data unreasonably.

6. Later in the appeal, the appellants also submitted a full copy of the survey data as an attachment to their final comments, dated 10 February 2025. The Council asked the Inspectorate to refuse to accept this information at that stage, but the decision was made that it should be accepted, and this was conveyed to the Council in an email on 4 April 2025. That decision rested with the Inspectorate, not the appellants. It would have been open to the Council to request to be allowed to comment further, but no such request was received. The appellants' behaviour in submitting the survey was not unreasonable.
7. In any event, as already noted, for a costs application to succeed, it would be necessary to show that unnecessary or wasted expense had been caused. In this case there is nothing in the evidence before me to suggest that any additional expense was incurred by the Council as a result of any of the above matters relating to the speed survey.
8. I note the Council's submission that, as a result of the initial failure to submit the survey evidence, the whole appeal stood no reasonable prospect of success. However, this suggestion is clearly unfounded. Whilst I have found against the appellants on the issue of highway safety, that finding did not turn on the details of the speed survey, nor on the lack of it, but rather on the balance of the evidence on that issue as a whole.
9. It has therefore not been demonstrated either that unreasonable behaviour took place, or that any unnecessary expense was incurred. For these reasons, the Council's costs application fails and no award is made.

J Felgate

INSPECTOR