
Costs Decision

Site visit made on 18 June 2025

by **K Lancaster BA (hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 June 2025

Costs application in relation to Appeal Ref: APP/E2001/W/25/3361664 Land North of Catfoss Lane, Catfoss, Brandlesburn, Driffield YO25 8EJ

- 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 East Riding of Yorkshire Council for a full award of costs against Mr Rodney Robinson on behalf of Robinson The Builders Merchant Ltd.
 - The appeal was against the refusal to grant approval of details required by conditions of a planning permission ref 24/1430/STPLF.
-

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, who in this case is the Council is seeking a full award of costs on the basis that the appellant has acted unreasonably which has caused unnecessary or wasted expense in the appeal.
4. It is not disputed by the main parties that the originally submitted Landscape and Ecological Management Plan (dated September 2024) (the LEMP) was insufficient to discharge the conditions. The Council states that they published comments provided by the Council's Nature Conservation Officer setting out the reasons why the LEMP was insufficient to discharge the condition within 21 days of receipt of the application. However, the Council has confirmed that the appellant submitted the revised LEMP some 32 days after the comments were published on the 23 November 2024.
5. The Council's states that their processes in relation to whether or not amendments will be accepted are set out on their website and within the acknowledgement letter, which states that the Council will accept simple amendments to a plan or document where a scheme is unacceptable as submitted, but can be made acceptable subject to very minor amendments. In this particular case, the evidence before me demonstrates that the case officer also advised the applicant that amendments would not be accepted. They further state that the appellant's agent is fully aware of the Council's process yet still submitted additional information.
6. In this respect, whilst the appellant does not dispute the date of the submitted information, they state that this is immaterial as all evidence was submitted with the

statutory eight-week determination period. Furthermore, they state that it was submitted within six hours of receiving correspondence from the case officer, which they consider would have allowed for consideration and re-consultation, as necessary.

7. In this respect, the PPG¹ sets out that *“it is possible for an applicant to suggest changes to an application before the local planning authority has determined the proposal. It is equally possible after the consultation period for the local planning authority to ask the applicant if it would be possible to revise the application to overcome a possible objection. It is at the discretion of the local planning authority whether to accept such changes, to determine if the changes need to be reconsulted upon, or if the proposed changes are so significant as to materially alter the proposal such that a new application should be submitted”*.
8. On this basis, it I find that it is not unreasonable of the appellant to seek to address the Council's concerns during the application process, and it is at the discretion of the Council whether to accept them. The National Planning Policy Framework encourages Council's to approach decisions in a proactive and creative way. However, it does not require Council's to accept amendments to submitted schemes in all cases.
9. The Council states that the appellant, instead of appealing the decision, could have re-applied with the amended supporting information to discharge Condition No.5 and received a determination prior to the decision of the Inspector. The Council further state that they have incurred unnecessary or wasted expense in connection with the appeal, in preparing the appeal, providing comments on the appellant's costs application and in seeking comments from the Council's Nature Conservation Officer.
10. Whilst the appellant did have the opportunity to re-apply to the Council for determination, they are also within their rights to appeal a decision. The appellant also states that the submission of a further application would have incurred additional fees, which they believe would have arisen unfairly as a result of the Council's unwillingness to consider the amended documents. However, had the appellant submitted as revised application, as suggested, it would still have been necessary for the Council to obtain updated comments on the amended LEMP.
11. Therefore, whilst there is clearly frustration on both sides in relation to the process and subsequent appeal, I have not been presented with any substantive evidence that the appellant has acted unreasonably in exercising their right of appeal, nor that this has caused the Council to incur any unnecessary or wasted expenses. The right of appeal is a statutory right and following the Council's decision to refuse the application the appellants duly exercised that right. It is not therefore unreasonable behaviour by the appellant.
12. For the reasons set out above, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Lancaster

INSPECTOR

¹ Paragraph: 061 Reference ID: 14-061-20140306