
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 Mr Rodney Robinson on behalf of Robinson The Builders Merchant Ltd for a full award of costs against East Riding of Yorkshire Council.
 - The appeal was against the refusal to grant approval of details required by conditions of a planning permission ref 24/1430/STPLF.
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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 is seeking a full award of costs against the Council on procedural grounds. The appellant states that the Council refused the application on the basis of a perceived lack of information, relating to the submission of a Landscape and Ecological Management Plan (the LEMP). However, they state that all required information was submitted within the statutory timeframe. The applicant states that the approach adopted by the Council in relation to whether to accept amendment contradicts the approach encouraged by the National Planning Policy Framework (the Framework). For these reasons, the applicant alleges that the Council's refusal to accept additional information, or to engage in a proactive manner has directly led to the appeal, which has resulted in additional costs being incurred.
4. In response, the Council state that they refused that application based on the LEMP (dated September 2024) being insufficient to discharge the condition. The amended LEMP was submitted on 23 November 2024, which was a non-working day and just a few days prior to the eight-week deadline for determination of the application. The Council states that they refused to accept the amendment in accordance with their adopted procedure.
5. The Council further state that the Nature Conservation Officer's comments were made publicly available on 22 October 2024, some 32 days prior to the LEMP being submitted to the Council. Therefore, even if they had been willing to accept an amended LEMP they disagree that the appellant submitted the document in a timely manner.

6. Based on the evidence before me, the Nature Conservation Officer's comments were provided within 21 days, and I have not been provided with any substantive evidence of any attempts of the applicant to seek to address these comments prior to the 23 November 2024, when the revised LEMP was submitted contrary to the advice of the Council. Furthermore, I am satisfied that the wording of Condition No.5 provides sufficient detail for the appellant to successfully discharge the condition.
7. Whilst I note the appellant's frustrations with the Council's approach, the Council state that they 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. However, they clearly state that amendments which may require further consultation will not be accepted.
8. In respect of the Council's procedure, it is clear that the Council has adopted a procedure by which amendments which require additional consultation will not be accepted. This was communicated to the applicant prior to the submission of the amended LEMP and again after it was submitted. The Council also outlined alternative options available to the applicant, including the submission of a new application. Furthermore, the Council set out at validation stage that the submission of additional information and amendments as well as requests for extensions of time would not be accepted.
9. Whilst the Framework¹ advocates that local planning authorities should approach decisions in a positive and creative way this does not place an express obligation on Council's to accept additional information. The PPG² states 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"*.
10. The PPG³ further states that *"the local planning authority should respond to requests to discharge conditions without delay and must give notice to the applicant of its decision within a period of eight weeks, beginning with the day immediately following that on which the application is received, or any longer period agreed in writing between the applicant and local planning authority"*. However, if no decision is made to discharge the condition within twelve weeks, Regulation 16(2) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 states that any fee paid under this regulation shall be refunded.
11. Therefore, whilst I note that the applicant offered to agree to an extension of time, given the date on which the amended LEMP was submitted, the Council were mindful of the above obligation and limited time for consultee comments to be obtained, without having to refund the fee paid.

¹ Paragraph 39

² Paragraph: 061 Reference ID: 14-061-20140306

³ Paragraph: 034 Reference ID: 21a-034-20190723

12. Whilst it is regrettable that a more cooperative and proactive approach could not be adopted, the Council has highlighted that the planning department is taking action to clear a significant backlog of cases. The submission of the appeal was only one option available to the applicant, the submission of a new application would, based on the comments of the Council, have been likely to result in a timelier outcome. Furthermore, the Council issued a split decision approving the details relating to the remaining conditions. For these reasons, I do not consider that the Council has displayed unreasonable behaviour that is procedural in nature.
13. For the reasons set out above, despite finding in favour of the appellant in respect of my main decision, 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