



Costs Decision

Site visit made on 24 October 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2025

Costs application in relation to Appeal Ref: APP/Y2003/W/24/3346249

Land West of Scotter Road, Messingham DN17 3QE

- 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 S Cooke of Brooke Planning and Consultancy Ltd for a full award of costs against North Lincolnshire Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
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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 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 appellant sets out a number of reasons why they consider the Council has behaved unreasonably.
4. First, that the Council has refused to validate an application which was validly made. However, as can be seen from my Appeal Decision, I have concluded that there were fundamental uncertainties about access to the site from both Manor Farm Close as well as Scotter Road. This would be material to the Council's consideration of the application. The Council was therefore justified in requiring full details of the access and junction with the highway to be provided with the reserved matters application, and I therefore do not conclude that the Council has behaved unreasonably in refusing to validate the application.
5. Second, that the Council has apparently failed to properly consult on the application/appeal once made. However, the access and junction with the highway are fundamental to the Council's consideration of the reserved matters, as will also be the case for consultees and interested parties. As has been set out in my Appeal Decision, if the Council had proceeded on the basis of the originally submitted details, then this may have consisted of a development proposal with no realistic highway access, and particularly no vehicular access. It would not be in the public interest to proceed to determine an application or appeal on that basis. Although I have proceeded to determine the appeal and have allowed it, I was only able to do so due to an approval on an adjacent site which enabled vehicular access to the appeal site.

6. Whilst the Council has maintained that the application was invalid even after the approval of the adjacent development, I do not consider that this is unreasonable given the complexities of this appeal and the associated uncertainties, including the chronology of the appeals as well as the interpretation of legal opinion and judgments.
7. Third, that the Council has sought to rely upon matters which were dealt with under the outline planning permission. However, when allowing the previous appeal, the Inspector was clear that *"the location of the access is reserved and is not therefore for me to consider here"*. The Conditions placed on the outline planning permission were clear in that the details to be submitted with the reserved matters included the proposed access and estate roads, including the junction with the adjacent highway. These matters were therefore not dealt with under the outline planning permission.
8. Fourth, that the Council has sought to rely upon matters which were capable of being addressed by way of condition. The Council's second reason for considering the application invalid refers to drawings of the footway and surface cross-sections which are not provided to scale. I have concluded that the Council could have requested these details as part of the application process or through a planning condition. However, given that conditions on the outline planning permission specifically required the submission of construction details, I do not consider that it was unreasonable of the Council to ask for them at the validation stage. Moreover, I have concluded that the Council's request that details of the access arrangements to the highway be provided as part of the application was justified. The consideration of highway construction details has therefore not led to an appeal that could otherwise have been avoided.
9. The appellant has further responded that the Council's position has changed in that the information was required to allow the application to be determined. They contend that it is therefore implicit within the Council's latest submissions that they no longer maintain that the information was necessary to allow the application to be validated. However, Article 6(b) of Part 3 of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015 (DMPO) sets out that applications for approval of reserved matters must include such particulars, and be accompanied by such plans and drawings, as are necessary to deal with the matters reserved in the outline planning permission. If information is necessary to deal with the reserved matters as part of the determination of the application, it is reasonable that the Council ask for it to be provided prior to validation in accordance with the DMPO.
10. Although consultees and interested parties may be able to request further information during the course of determining an application, details of the junction with the highway are fundamental to the consideration of the reserved matters. Given that this was a specific requirement of the outline planning permission, the Council was justified in requiring this information at the validation stage.
11. The appellant refers to the Council's delays in responding to e-mails. However, having regard to the correspondence enclosed in Appendix A of the Council's response on costs, the Council has clearly stated the requirement to submit details of the access prior to the period of delays highlighted by the appellant. The appellant therefore had suitable opportunity to provide this evidence early in the validation process.

12. Although the Council has asked for guidance as to the procedure for dealing with the appeal, given the relatively complex circumstances of this appeal it was not unreasonable for the Council to seek clarification.
13. Drawing the above together, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

David Cross

INSPECTOR