



Costs Decision

Site visit made on 1 July 2025

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Costs application in relation to Appeal Ref: APP/F4410/W/25/3362127

The former Star Inn PH car park, The Star Inn, Moss Road, Moss, Doncaster, South Yorkshire DN6 0HQ

- 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 and Mrs Bulmer for a partial award of costs against City of Doncaster Council.
 - The appeal was against the refusal of planning permission for development.
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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. Unreasonable behaviour on the part of a local planning authority may include it making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, preventing or delaying development which should clearly be permitted, having regards to its accordance with the development plan, national policy and any other material considerations, and not determining similar cases in a consistent manner.
3. The appellant contends that following the Council's refusal of planning, an email was sent to the Council in order to ascertain what mechanisms would be required to secure the proposed dwellings as custom/self-build housing. The Council confirmed that a S106 legal agreement would be required on 19th February 2025. Legal advisors were subsequently instructed and a draft S106 legal agreement was submitted by the appellant as part of the appeal. However, the Council then changed their opinion and at the appeal stage considered that the proposal could be dealt with by way of an appropriately worded planning condition. Therefore, the appellant argues that they have incurred wasted expense.
4. The Council has not responded to the application for costs.
5. Although the Council considered that the custom/self-build housing could be secured by condition, I have found in my appeal decision that a condition would be unlikely to pass the tests within paragraph 57 of the National Planning Policy Framework with regards to being enforceable, sufficiently precise and reasonable in all other aspects. A Section 106 legal agreement would therefore be the most appropriate method to secure matters which ensure that first occupants have had

primary input into the design and layout of the dwelling, the ownership of the custom/self-build dwelling for a period of three years as well as to bind the requirement to successors in title should the property be sold in the future.

6. Whilst I have dismissed the appeal for other reasons, a signed and executed S106 legal agreement would have been required had I been minded to allow the appeal. Therefore, the drafting of the document was a necessary requirement of the appeal process. Although the Council changed their position regarding the requirement for a S106 legal agreement and consequently it was not signed and executed, I do not consider that it resulted in wasted expense to the appellant.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as defined in the PPG, has not been demonstrated. Accordingly, the application for costs is refused.

C Skelly

INSPECTOR