



Costs Decision

Site visit made on 22 July 2025

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 2 September 2025

Costs application in relation to Appeal Ref: APP/X1355/W/25/3364516

Land to the north east of 90 Snows Green Road, Shotley Bridge, County Durham DH8 0NL

- 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 Jeremy Swinburne for a full award of costs against Durham County Council.
 - The appeal was against the refusal of the Council to grant outline planning permission with access for the erection of 2 no. dwellings (up to 2 storeys) with appearance, layout, scale, and landscaping reserved.
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Decision

1. The application for an award of costs is allowed in part in the terms set out below.

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 in the context of an application for an award of costs may either be procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
3. The applicant has referred to the Council failing to meet them on site during the application to discuss the highway concerns. Moreover, they consider that the Council was inconsistent in their advice and disagree with their reliance on Design Manual for Roads and Bridges (DMRB), rather than Manual for Streets 2 (MfS2). Furthermore, they contend that refusal reasons 2 and 3 were a surprise, the Council was disrespectful in this regard, and they did not exercise their responsibilities in a reasonable manner.
4. The main parties disagree over the relevant highway guidance, and although MfS2 is usually applied on roads below 40mph as found at the appeal site, the Council advised, that DMRB would be more appropriate. As identified by the applicant, these are professional opinions, which both parties have provided. However, any guidance must be tailored to the site circumstances, which in this case includes an incline and a lack of visibility. Moreover, I have dismissed the appeal, partly on the grounds of highway safety.
5. Although it was disappointing to the applicant that they were unable to meet the Council to discuss the highway issues, this may not have resolved the concerns. Moreover, whilst the Council should work with the applicant in a positive and

proactive manner, there are no provisions that requires the Council to meet on site once a planning application has been submitted. Therefore, whilst a meeting would have improved understanding between the main parties, it is unlikely to have led to a different outcome.

6. The applicant contends that the Council should have commented on the highway build outs that they had identified elsewhere in the county. However, as I found, limited substantive evidence was provided on these examples. Therefore, the Council not commenting on these, does not demonstrate unreasonable behaviour.
7. Although refusal reasons 2 and 3 may have been a surprise to the applicants, there is again no provision requiring the Council to inform an applicant of the future outcome of an application. Consequently, a surprise does not result in unreasonable behaviour, and I, too, have found that the proposal would cause some harm to the character and appearance of the area.
8. The proposal was submitted before statutory Biodiversity Net Gain was required for a site of this size. The Council agree that the submission of further information would have addressed their concerns regarding biodiversity, but this was not requested because of the overall scheme being unacceptable. However, the evidence demonstrates that the biodiversity of the site would not be harmed, and I agree with the applicant that a suitably worded condition could ensure that the proposal would result in net gains for biodiversity.

Conclusion

9. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in part, relating to the Council's third reason for refusal. Therefore, a partial award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Durham County Council shall pay to Mr Jeremy Swinburne, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of preparing for and responding to matters relating to the third reason for refusal on the Council's decision notice; such costs to be assessed in the Senior Courts Cost Office, if not agreed.
11. The applicant is now invited to submit to Durham County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M J Francis

INSPECTOR