



Costs Decision

Site visit made on 18 June 2025

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2025

Costs application in relation to Appeal Ref: APP/E2001/W/25/3363530 Land to the north east of Ferry Road, Wawne HU7 5XY

- 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 E and J Shuttleworth for a full award of costs against East Riding of Yorkshire Council.
 - The appeal was against the refusal of planning permission for erection of 9 'First Home' dwellings with associated infrastructure.
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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. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal and with respect to the substance of the matter under appeal. Examples of unreasonable behaviour may include introducing fresh and substantial evidence at a late stage, preventing or delaying development which should clearly be permitted, refusing planning permission on a planning ground capable of being dealt with by conditions, or requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy.
4. The applicant for costs contends that the Council has behaved unreasonably by failing to consider an executed Unilateral Undertaking (UU), revised plan and proposed conditions supplied by the applicant prior to the Council determining the application, especially as there had been a change in circumstances. The applicant also considers the Council's late submission of evidence regarding the Humber Estuary Strategic Access Mitigation and Monitoring Strategy (SAMMS) to have been unreasonable.
5. The evidence before me indicates that the Council did respond to the applicant following the receipt of a signed, albeit undated, UU on 22 November 2024, prior to its determination of the application on 29 November 2024. In its appeal statement, the Council also acknowledged the agreement provided by the appellant in the appeal. Nevertheless, the UU originally submitted with the appeal was also undated. The Procedural Guide: Planning appeals – England states that the appellant must ensure that an executed and certified copy of the planning obligation is supplied at the time of making their appeal.

6. While an executed UU was submitted later in the appeal process, it will be seen from my decision that I agree with the Council with regards to issues in the drafting of the UU, and that it does not adequately secure the requisite planning obligations as currently worded.
7. I recognise that, following the decision of the Council's planning committee, the Parish Council were successful in securing ownership of the land adjacent to the application site, thereby altering the terms by which trees along the boundary of the site could be protected by a Section 106 agreement.
8. However, while the Framework states that local planning authorities should work proactively with applicants, the Council is not obligated to accept amendments during the course of an application. Moreover, no compelling reason has been presented as to why the interest of the Parish Council in the land would preclude the applicant from entering into a Section 106 agreement with all interested parties, in line with the original resolution of the planning committee.
9. Accordingly, I do not consider that the Council acted unreasonably in respect of their consideration of the planning obligations during the application or at appeal.
10. Additionally, the SAMMS was published alongside the Local Plan Update, which was adopted after the Council's decision on the application. I recognise these matters were only raised after the Council submitted its appeal statement. However, the appellant has indicated that the UU submitted as part of the appeal is the same document that was sent to the Council prior to determination of the application. Had the Council included this information in its appeal statement, a Deed of Variation to the UU would thus still have been required.
11. Even if I were to find that the Council acted unreasonably in raising this matter at the stage that it did, the costs incurred in preparing a Deed of Variation would still have occurred if the matter were raised earlier in the appeal process, and so it is not clear that the applicant was put to unnecessary or wasted expense as a result.

Conclusion

12. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Ryan Cowley

INSPECTOR