



Costs Decision

Site visit made on 4 December 2025

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2025

Costs application in relation to Appeal Ref: APP/N4720/W/25/3363405

Land at Ash Grove, Ash Grove, Otley, West Yorkshire, LS21 3EX

- 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 Bankhead Group for a full award of costs against the Leeds City Council.
 - The appeal was against the refusal of the Council to grant subject to conditions planning permission for Surfacing works to existing site access.
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Decision

1. The application for a full award of costs is refused. However, a partial award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, Paragraph 030¹ of PPG advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Paragraph 051² of the PPG states that awards against appellants may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal.
3. The applicant considers that in determining the application the Council prevented development that should clearly have been permitted, refused permission on grounds that could have been dealt with by condition, provided vague and generalised assertions regarding impact that are unsupported by objective analysis, acted contrary to case law and failed to properly substantiate each reason for refusal. I have set my reasoning out in line with the Council's decision and reasons for refusal.

Reasons for the development

4. The officer's report appears to presume that the road could be used to facilitate residential development on the paddock. I agree with the Council that there is very little evidence that the current access situation is causing damage to protected trees, and there is a planning history of unsuccessful applications for housing on the paddock. Nonetheless, I agree with the appellant that the role of the decision maker is to determine an application on what is before them. In this regard I

¹ Reference ID: 16-030-20140306

² Reference ID: 16-051-20140306

conclude that the Council has acted unreasonably. I appreciate that the Council withdrew this reason for refusal after the appeal was lodged. Nonetheless, it forms a part of the appeal statement and as such has caused wasted expense at appeal.

Protected Trees

5. With regard to damage to trees, the Council raised concerns in relation to surfacing over Root Protection Areas and pruning to tree canopies. The Council has set out its reasoning in the officer's report and cited relevant policies. As such I am unable to conclude that the Council acted unreasonably in this regard.

Highway safety

6. The costs application states that the development would *not be capable of introducing higher numbers of vehicles or vehicles of a different nature that already utilise the existing access*. However, the construction is for an access road capable of carrying vehicles weighing 6 tonnes gross, and the evidence refers to future use by high-sided vehicles and livestock trailers. There is nothing in the evidence to suggest that the current track and the paddock are capable of carrying those loads or that vehicles of that size currently use the access. Moreover, the appellant's final comments state the frequency and nature of vehicular trips could intensify, depending on how the paddock is used in the future.
7. Furthermore, it is apparent from the evidence that the construction would require the use of land outside the red line boundary for vehicle turning, materials delivery and storage. Although the evidence indicates that the appellant owns land to the east of the appeal site, beyond the red line boundary, this is not shown on the location plan. Moreover, the paddock is soft undeveloped ground that might not be suitable for such use. The western access, Burras Drive, is unadopted and less than standard width. As such, there are justifiable reasons to query construction access.
8. As such, and in the absence of more detailed information regarding access and circulation during construction I do not consider it unreasonable for the Council to raise a concern in relation to access and its impact on highway safety.
9. I acknowledge that a construction management plan could have addressed some of these issues, but given the lack of detail and inconsistency in the evidence before the Council, it would not necessarily have been appropriate to presume that all issues could be dealt with by condition.
10. In response to a query I raised during the appeal with regard to the red line boundary, the applicant highlighted case law³ which appears to refer to a situation similar to that of this appeal. On that basis I concluded in my decision that the red line boundary did not necessarily need to include all the land required to undertake the construction. Nonetheless, at the time of determination I consider that it was not unreasonable for the Council to have raised these concerns.
11. Whilst I disagree with the Council that the access road should adhere to the highways authority's standards with regard to road construction, I am unable to conclude that a concern related to highway safety and the limitations set by the red

³ Wyatt v Fareham BC [2021] EWHC 1434 (Admin)

line boundary was unreasonable. Although specific paragraphs of the policies are not cited in the decision, the officer's report gives sufficient reasoning.

Conclusion

12. With regard to the first reason for refusal, the reasons for development, I find that unreasonable behaviour resulting in unnecessary or wasted expense at appeal has been demonstrated and that a partial award of costs is justified in this regard only.
13. With regard to reasons for refusal relating to trees and highway safety, I conclude that unreasonable behaviour has not been demonstrated and that there has not been wasted expense at appeal.

Costs Order

14. 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 Leeds City Council shall pay to Bankhead Group, the costs of the appeal proceedings described in the heading of this decision and limited to those costs incurred in addressing the first reason for refusal only; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Leeds City 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.

A Edgington

INSPECTOR