



Costs Decision

Site visit made on 4 December 2025

by **M Cryan BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 June 2026

Costs application in relation to Appeal Ref: APP/U2750/W/25/3373425

Land to south of Bramble Court, Sherburn in Elmet, North Yorkshire LS25 6ND

- 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 Richard Hill of Landshill Ltd for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of outline planning permission for the erection of a dwelling including access (all other matters reserved).
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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 ("the 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. Paragraph 049 of the PPG gives examples of behaviour which may give rise to a substantive award of costs against a local planning authority. Among these are "preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations", making "vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis", "not determining similar cases in a consistent manner", and "refusing planning permission on a planning ground capable of being dealt with by conditions" ¹. I was not explicitly pointed towards these specific examples, but on my reading of the submissions they broadly cover the applicant's case.
4. The applicant considers that the Council's officer report included "fundamental and irreconcilable contradictions that vitiate the decision"; notably that as the appeal site is in a sustainable location close to services and facilities and the principle of residential development on the site was considered acceptable, in the light of the so-called "tilted balance" set out in Paragraph 11 d) of the National Planning Policy Framework being applied due to the Council's housing land supply position, outline planning permission should have been granted. The applicant contended that the reasons for refusal were all matters which could, and should, have been dealt with at reserved matters stage.
5. As I have explained in the main appeal decision, while the principle of a certain use may be considered acceptable, it does not follow that any particular scheme would be. Where one or more matters are reserved, in the absence of specific details it

¹ . Reference ID: 16-049-20140306

may be necessary to draw inferences from the available information to understand whether the development applied for could be accommodated on the site without causing unacceptable harm, and therefore whether planning permission – albeit in outline – should be granted. In this case, based on all the evidence which was put to me, I agreed with the Council's assessment that it should not.

6. The Council's assertion that the property neighbouring the appeal site to the north – No 37 Low Street – does not have any windows in its north-facing elevation was incorrect, as the applicant pointed out during the appeal; there are in fact two on the first floor. However, this was not something which undermined the broader thrust of the Council's decision, in fact it was a matter which had no significant bearing on my assessment of the likely impact of the appeal scheme on living conditions for the occupiers of No 37.
7. The Council's concerns about impacts on the external "amenity space" at No 37, and the applicant's observation that the space appears to largely serve as an area for vehicle parking and turning, addresses matters which are perhaps a little more subjective. As explained in paragraph 20 of the appeal decision, I was satisfied that the appeal scheme would not lead to an unacceptable increase in overlooking, or a corresponding harmful loss of privacy, in respect of No 37; on balance I therefore supported the applicant's analysis on this particular matter. My finding was, however, made on the basis that it would be possible to bring forward a scheme at reserved matters stage which would avoid such harm. Again, the precise nature of the Council's assessment did not in itself have a great bearing on the outcome of the appeal.
8. The applicant takes issue with how the Council addressed biodiversity net gain ("BNG") when determining the planning application. As BNG is dealt with by a pre-commencement condition imposed by Schedule 7A of the Act, the applicant considered that the Council could have granted outline permission subject to a condition requiring the submission and approval of a biodiversity gain plan. However, as is explained in paragraphs 30 and 31 of the appeal decision, the applicant provided erroneous and inadequate information in respect of BNG. The submitted information did not provide certainty that an appropriate provision *could* be made, let alone that it would be. I do not consider that the Council's concerns on this matter were misplaced.
9. In respect of access, which was not a reserved matter, the applicant considered that this had already been established as acceptable by an earlier grant of planning permission². As I explained in paragraphs 26 and 27 of the appeal decision, the site's surroundings have changed since that permission was granted. The applicant suggests that the Council could, and should, have requested further specific information before determining the application. It is the Council's case that it did not request that information because it did not consider that the (then-putative) reasons for refusal could have been overcome. Even if the Council had requested (and been satisfied with) additional information on this matter, there were three other reasons for refusal, all of which were substantiated during the appeal; I also note that the applicant did not provide information which addressed the Council's concerns during the appeal.

² LPA Ref: 2015/1413/OUT

10. Taking all of this together, and as set out at greater length in my main decision, I consider that the Council's decision to refuse outline planning permission was well founded. None of the points put forward to the appellant here is, to my mind, demonstrative of unreasonable behaviour on the part of the Council.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and an award of costs is not warranted.

M Cryan

Inspector