



Costs Decision

Site visit made on 6 February 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th May 2024

Costs application in relation to Appeal Ref: APP/U2750/W/23/3330845 Land at Church Farm, Knaresborough Road, Bishop Monkton HG3 3QQ

- 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 Kebbell Development Ltd for a full/partial award of costs against North Yorkshire Council.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of 28no. residential dwelling and associated works.
-

Decision

1. The costs application is allowed in part and partial costs are awarded.

Reasons

2. The Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour on a substantive or procedural basis has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. It is claimed that the Council have acted to delay development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations. It is also suggested that the Council have failed to substantiate the reasons for refusal and have made vague and inaccurate assertions on the proposals impact.
4. I note that the site is identified for development within the Harrogate Local Plan (2020) (HLP). Whilst that is the case, it was perhaps not possible at that time to anticipate every detail of the resultant development scheme that would come forward on the site. I note that it appears some hedgerow loss was anticipated.
5. However, with regard to the first reason for refusal, the decision making of the committee on behalf of the Council appears clear on the basis of the evidence. Whilst it is not a position that I have agreed with, they were entitled, having considered the detailed scheme to come to that conclusion with respect of the impact of the proposal on the Church and Conservation Area whilst also weighing those against the public benefits of the scheme which are clearly identified within the evidence. I do not therefore find unreasonable behaviour with regard to that reason for refusal.
6. With regard to the second reason for refusal, there does not appear to be anything compelling within the evidence to indicate increased flooding and

sewerage escapes within the village since the adoption of the local plan to justify withholding planning permission on that ground. Even if there had been firmer grounds to oppose the development on that basis, the position of the committee with regard to the second reason for refusal is difficult to reconcile with the respective positions of Yorkshire Water and the Lead Local Flood Authority who have not objected to the development. Detailed and substantial grounds would have needed to be set out to reasonably come to an alternative conclusion. Such information was not included within the Council's statement of case with regard to this reason for refusal.

7. Therefore, the Council have behaved unreasonably with respect to the substance of the matter under appeal. There has been a failure to produce evidence to substantiate the second reason for refusal on appeal and vague and generalised assertions have been made about the impact of the proposal which are unsupported by any objective analysis.

Conclusion

8. Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to procedural matters relating to the process or substantive matters relating to the issues arising from the merits of the appeal. I find that the Council have behaved unreasonably with respect to the substance of the matter under appeal in relation to refusal reason 2.
9. I therefore find unreasonable behaviour that has resulted in unnecessary and wasted expense in the appeals process. A partial award of costs is subsequently justified with regards to costs associated with contesting refusal reason 2.

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 North Yorkshire Council shall pay to Kebbell Development Ltd the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to North Yorkshire 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.

T Burnham

INSPECTOR