
Costs Decision

Site visit made on 16 November 2016

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 December 2016

Costs application in relation to Appeal Ref: APP/Y2003/W/16/3150479 27 A18 Trunk Road, Althorpe, Scunthorpe, Nth Lincs DN17 3HN

- 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 Martin Moat for a full award of costs against North Lincolnshire Council.
 - The appeal was against the refusal of planning permission for change of use from closed Public House to fully residential single dwelling C3.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for the costs to incur unnecessary or wasted expense in the appeal process.
 3. The PPG makes it clear that a Council is at risk of an award of costs if it prevents or delays development which clearly should be permitted having regard to its accordance with the development plan, national policy and any other material considerations, makes vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis or persists in objections to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable.
 4. The Council refused the application for one reason regarding the loss of a key local facility. The Council considered that insufficient information had been provided to demonstrate that the public house was no longer economically viable or that all options for its continuance had been explored.
 5. Policy C2 of the North Lincolnshire Local Plan 2003 is permissive of proposals which would lead to the loss of key village services only where it can be demonstrated that these facilities are not economically viable and that options for their continuance have been fully explored. The Council's evidence at the hearing was centred on their view that the price at which the appeal site was marketed was too high and this was supported by an up to date valuation of the property by the District Valuers Office. I have agreed with the Council in respect of this matter within my decision and determined therefore that options for the continuance of the public house as required by Policy C2 have not been
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- fully explored. Therefore it follows that I do not consider that the Council has acted unreasonably in raising this issue as part of the reason for refusal, which they have demonstrated with objective analysis and evidence.
6. The Council have offered no comment on the viability appraisal submitted by the appellant. Instead they link viability to the low marketing price. While this is an aspect of viability, assessment also needs to be made of past performance and the Council were lacking in evidence in this respect. Nonetheless from my assessment of the appraisal and information submitted by the Spirit of Althorpe Community Group (SOCG) I have not been persuaded that the appellant has satisfactorily demonstrated that a pub would be no longer economically viable and therefore the proposal fails to comply with Policy C2 of the Local Plan. While the Council have therefore acted unreasonably in this respect, it has not resulted in the appellant being put to any unnecessary or wasted expense.
 7. Policy CS22 of the North Lincolnshire Core Strategy 2011 resists the loss of community facilities, unless there is no longer a need for the building in any form of community uses, or there is an acceptable alternative means of meeting such a need. The Council relied heavily on the evidence of the SOCG in this respect and I found this to be compelling, demonstrating the support in the local community for a key facility. As a result therefore I found that the proposal was contrary to Policies within the development plan and national guidance and therefore development has not be prevented or delayed.
 8. The Inspector in her decision regarding APP/Y2003/A/14/2215979 found that she could not be satisfied that the pub was economically unviable as a business and therefore could not be a commercial proposition in the future. Furthermore she also found that options for the continuance of the operation of the pub had not been actively pursued or explored. She also stated that it had not been proven that there is no longer a need for the building in any form of community use. Consequently contrary to the appellant's assertions it was not dismissed solely on the grounds that there was no viability evidence, but also issues relating to the marketing of the property.
 9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense has not been demonstrated. For this reason an award for costs is therefore not justified.

Zoe Raygen

INSPECTOR