
Costs Decision

Site visit made on 7 February 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 27 February 2017

**Costs application in relation to Appeal Ref: APP/Y2003/W/16/3161961
Former RAF Kirton in Lindsey, Gainsborough, Lincolnshire, DN21 4HY**

- 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 Acorn Recyclers for a full award of costs against North Lincolnshire Council.
 - The appeal was against the refusal of planning permission for the change of use of three vacant hangars for B8, ancillary B1 uses and agricultural storage.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance advises that costs may 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 application was recommended for approval by the Council's officers. Members are not bound to accept the recommendations of their officers, however, this does not exempt them from following the Planning Practice Guidance which says that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.
4. Examples of this are listed in the PPG¹ and include: "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" and "vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis".
5. I consider that Policy T2 was correct to use in the decision notice as it relates to issues of access and therefore highway safety. That said, the Council provided no substantive evidence about how the proposal would conflict with this policy or why it would be harmful to highway safety. On the contrary, the professional advice from the Local Highway Authority was that, subject to certain conditions, the development would be acceptable. No technical evidence was presented to counter the professional advice or the appellant's transport assessment.

¹ Paragraph 049 Reference ID 16-049-20140306

6. In relation to the issue of the location of development, the Council's own Housing and Employment Land Allocations Development Plan Document (HELA DPD) specifically identifies the buildings as being suitable for commercial use. The Council ignored officer advice in this respect and ignored its own DPD with no good reason being provided.
7. In respect of heritage, the Council merely asserted that the development would result in harm to heritage assets. Confirming the existence of the heritage assets is not enough. The harm must be quantified and explained. The Council provided no coherent explanation of how heritage assets would be harmed. Furthermore, the Council's Historic Environment Record department did not raise any objection to the proposal. The fact that the appellant did not produce a heritage statement is not, in itself, sufficient reason for refusal. It is still necessary to be able to substantiate the harm and given that the proposal was not for built development, it is illogical and pointless to demand a heritage statement.
8. Whilst there is some subjectivity involved in assessing how living conditions might be affected, in this particular case, officers had already explained why planning conditions would protect living conditions. Again, the Council ignored officer advice, ignored its own HELA DPD which identifies the buildings as being suitable for commercial use, and was unable to substantiate how the proposal would harm the occupiers of dwellings which do not yet exist.
9. I consider that the development should have been clearly permitted and that the Council produced vague and generalised assertions about the proposal's impact which are unsupported by objective analysis. The Council has therefore behaved unreasonably, and thereby caused the party applying for the costs to incur unnecessary expense in the appeal process.

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 Lincolnshire Council shall pay to Acorn Recyclers, 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 Lincolnshire 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.

Siobhan Watson

INSPECTOR