
Costs Decision

Site visit made on 24 May 2017

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 20 June 2017

Costs application in relation to Appeal Ref: APP/A3010/W/17/3169640 Land off Beckingham Road, Walkeringham, Doncaster, DN10 4HZ

- 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 & Mrs D W & L A White for a full award of costs against Bassetlaw District Council.
 - The appeal was against the refusal of outline planning permission for residential development.
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Decision

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

Reasons

2. Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process¹.
3. The appellant's application for an award of costs relates to the fact that the Planning Committee failed to accept the views of its professional officers to grant permission, and subsequently failed to substantiate the reasons for refusal by objective analysis at appeal. As a result the appellant contends that the Council acted unreasonably and that unnecessary or wasted expense was incurred as a result.
4. Planning Committee Members are not bound to accept the recommendations of their officers. Nevertheless, reasons for refusal should be substantiated and based on relevant evidence. The Council refused the proposal for 3 reasons. The first reason for refusal refers to the location of the development, outside the settlement boundary, in open countryside. It also refers to sustainable settlements and local distinctiveness. However, whilst it states that the proposal will have "adverse impacts" it failed to provide any substantive evidence to back up this view, or to provide any cogent argument as to what these adverse impacts might be.
5. In relation to the second reason for refusal. Taking into account advice in the Framework, and the wording of the reason for refusal, I have found that the

¹ Planning Practice Guidance ID16-031-20140306.

proposal should be refused based on the matter of flood risk. Nevertheless, the Council entirely refused to provide its own case in this matter and indeed stated within its costs rebuttal that flood risk wasn't a reason for refusal, contrary to its own decision notice. Therefore, although I have found in favour of the Council in refusing permission, had the appellants been provided with any cogent case on the part of the Council, they may not have pursued the appeal.

6. The third reason for refusal relates to the impact of the proposal on the setting of heritage assets, in particular, the Grade I Church of St Mary Magdelene, and the Grade II Manor House and Old Vicarage. It also referred to the historic setting of Walkeringham Village, although it isn't clear from the submission whether this is a designated or non-designated heritage asset. The reason for refusal refers to the proposal being up to 25 dwellings and having a suburban character. However, no details of layout were provided with the proposal and the Council provide no objective analysis of why they have assumed a future layout would be suburban in form. Furthermore, it failed to provide any relevant analysis of how the significance of the heritage assets or their setting would be affected by the proposed development.
7. The Council therefore failed to substantiate any of its reasons for refusal. Accordingly, all of the costs associated with the appeal, including those of employing a professional adviser, were unnecessary. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 Bassetlaw District Council shall pay to Mr & Mrs D W & L A White, the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to Bassetlaw District 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Anne Jordan

INSPECTOR