
Costs Decision

Inquiry Held on 28 to 30 November 2017

Site visit made on 30 November 2017

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 19th January 2018

Costs application in relation to Appeal Ref: APP/E2530/W/17/3173367 Land to the North of Longcliffe Road, Grantham, Lincolnshire

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Allison Homes Limited, Mr R Pask, Mr S Pask, the Namulus Pension Trustees Limited and the Trustees of the AJ Snarey Settlement for a full award of costs against South Kesteven District Council.
 - The inquiry was in connection with an appeal against the refusal of outline planning permission described as *'a sustainable urban extension to Grantham comprising; not more than 480 dwellings; a neighbourhood centre, a single form entry primary school, ancillary (formal and informal) public open space; including structural landscaping and biodiversity enhancement areas; and access works'*.
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Decision

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

The submissions for Allison Homes Limited, Mr R Pask, Mr S Pask, the Namulus Pension Trustees Limited and the Trustees of the AJ Snarey Settlement

2. The submission was made in writing at the Inquiry, with an oral rebuttal. Put simply, the applicants consider that the Council should have conceded at the Inquiry, if not before, that there would not be any harm to heritage assets. In such circumstances, there would be no basis for refusing permission. Even were harm to be found, the applicants considered that this was outweighed by the benefits arising from the proposal.

The response by South Kesteven District Council

3. The Council responded to the application for costs in writing at the Inquiry. Put simply, the Council considers that it defended the reasons for refusal at the Inquiry and that in doing so it has not acted unreasonably.

Reasons

4. The application for costs was made and responded to on the basis of the national *Planning Practice Guidance* (the Guidance). The Guidance, advises that costs may only be awarded against a party who has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process.

5. In this case, the Council refused permission on the grounds of the harm they considered arose from the scheme to the setting of nearby heritage assets. The reason for refusal could have been better constructed so as to properly detail the assets considered to be affected. What is more, the Proof of Evidence (POE) of the Council's heritage witness refers to heritage assets within the Manthorpe Conservation Area (as does the reason for refusal), but it then fails to define the significance of one of the principal listed buildings in the form of St John the Evangelist Church. This error of omission is unreasonable given the premise of the Council's stance on harm to the setting of heritage assets within the conservation area.
6. However, I do not consider that this resulted in unnecessary or wasted expense on the part of the applicants. Paragraph 128 of the National Planning Policy Framework requires applicants to describe the significance of any heritage asset affected, including any contribution made by their setting. To follow the process set out in the Framework, the applicants would have had to have carried out an assessment of the significance of heritage assets, irrespective of the Council's omission.
7. I agree that it is worrisome that a not insignificant section of the same POE appears to replicate in some detail and structure earlier work of Historic England, without proper reference to it. The Council's witness confirmed that they had contributed to this earlier work, but failed to properly reference its origins in their own POE. I do not consider that this error was deliberate or seeking to undermine the appeal process. The content remained pertinent to the matter at hand and whilst proper referencing would aid all parties, this is not in itself unreasonable behaviour.
8. What is more, in considering the appeal in its entirety, the Council had a defensible position in respect of heritage matters. It was a position supported by Historic England, in which both it and the Council considered that there would be 'less than substantial harm' to the significance of heritage assets and how this is contributed to by their setting.
9. The Council made a planning judgement that this harm was not outweighed by the various benefits provided, including the provision of up to 480 dwellings in an area that cannot currently demonstrate a five year supply of deliverable housing supply sites. This was on the basis of an Officer's report to committee recommending approval and which detailed the need to carry out the balancing required at Paragraph 134 of the Framework. It was entirely reasonable for the Council to have come to the conclusion that the harm outweighed the benefits of the proposal and refuse permission.
10. Although the final appeal decision found that there was no harm to the heritage assets, it was not unreasonable for the Council to have used and relied upon the submitted evidence to refuse permission and to defend its case.
11. Having carefully considered the matters above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated, and therefore the application for a full award of costs is refused.

Cullum J A Parker

INSPECTOR