



Costs Decision

Site visit made on 13 March 2018

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 28 March 2018

Costs application in relation to Appeal Ref: APP/Y2003/W/17/3181762 Land adjacent to Maple Lea, Gainsborough Road, Kirton in Lindsey

- 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 Gelder Ltd and Mr Barnard for a full award of costs against North Lincolnshire Council.
 - The appeal was against the refusal of planning permission for development originally described as 'proposed new development of 16 No. 3/2 bed houses/bungalows along with associated hard and soft landscaping'.
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Decision

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

Reasons

2. The 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 costs to incur unnecessary or wasted expense in the appeal process. Paragraph 031 of the PPG states that unreasonable behaviour in the context of an application for an award of costs may be either procedural, relating to the process or substantive, relating to the issues arising from the merits of the appeal. The applicant asserts that there are substantive grounds for an award of costs.
3. The PPG Paragraph: 049 advises 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, for example, by unreasonably defending appeals. Examples of this include failure to produce evidence to substantiate each reason for refusal on appeal and persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
4. The previous appeal relating to the appeal site APP/Y2003/W/16/3160399 was dismissed on 20 March 2017. The Inspector concluded on the balance of evidence before him that the principle of the proposed development under the exceptions of saved North Lincolnshire Local Plan Policy RD2, would be acceptable, but dismissed the appeal as he found a lack of a sufficiently robust mechanism to identify and secure the proposed development as one for affordable housing.
5. The Council identify some changes in circumstance since the previous appeal decision, with additional planning permission being granted for housing developments which make specific provision for affordable housing in Kirton in

Lindsey. In addition, the Council refer to a planning application which has been made in respect of the allocated site (KIRH-3) for up to 302 dwellings, which could make provision for up to 20% affordable housing. Whilst these matters do not persuade me that the current appeal should be dismissed, I do not find the Council's stance unreasonable given the circumstances cited and consider that it has been able to substantiate its reason for refusal. Consequently, I find that the Council has not acted unreasonably with respect to the substance of the matter under appeal.

6. I therefore conclude for the reasons set out above that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated.

Philip Lewis

INSPECTOR