



Costs Decision

Site visit made on 29 May 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2019

Costs application in relation to Appeal Ref: APP/R2520/W/19/3223065 Edens Rest Wholesale Nursery, Marehams Lane, Spanby, Sleaford, Lincolnshire NG34 0AS

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Davis for a full award of costs against North Kesteven District Council.
 - The appeal was against the refusal of planning permission for discharge of Condition No. 7 of planning permission 17/0838/FUL, for the siting of a temporary dwelling for permanent occupation and revision to: the siting of 2no. polytunnels; and the siting, design and layout of an agricultural building, permitted under planning permission Ref 10/0840/FUL - part retrospective.
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Decision

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

Reasons

2. 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 expense in the appeal process.
3. The application is for two reasons. Firstly, it is claimed that the Council failed to co-operate and work proactively with the applicants. Secondly, it is claimed that there was lack of sufficient justification and explanation for the refusal.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they lack co-operation, act contrary to policy or fail to produce evidence to substantiate each reason for refusal.
5. Regarding the first matter, the applicants contend that the Council made their decision without negotiation and refused to discuss any alternative scheme. The applicants consider that the Council's conduct, in this respect, was contrary to Policy LP1 of the Central Lincolnshire Local Plan (2017) and Paragraph 38 of the National Planning Policy Framework, which, amongst other things, require the Council to work proactively with applicants to secure developments that will improve the area.
6. I note that the Council did not meet the applicant's planning agent on the former's site visit of 7 December 2018. However, I see evidence in the Council's e-mails between 7 December 2018 and 4 January 2019 of attempts to

engage with the applicants on issues of concern, in order to arrive at an acceptable, revised scheme. Therefore, I find insufficient grounds to support a conclusion of unreasonable behaviour on the part of the Council due to a lack of cooperation or engagement with the applicant.

7. With regard to the second matter, the applicants consider that the Council did not provide sufficient justification and explanation for the refusal of application Ref: 18/1586/DISCON.
8. The Council's decision dated 17 January 2019 sets out their rationale for refusal in respect of the second element of part i) of condition No.7, regarding the identification of a residential curtilage for the temporary dwelling. In the decision, the Council sets out their view that the proposed residential curtilage would be disproportionate to the needs of the temporary dwelling, and would appear unduly incongruous within the landscape. Moreover, the Council refers in their decision to key points within previous appeal decision APP/R2520/W/18/3193385, regarding the impact of domestic paraphernalia on the area's rural character and appearance, and the objective of defining a curtilage which would enhance the site and not appear incongruous.
9. My appeal decision found the extent of proposed residential curtilage harmful to the character and appearance of the countryside. It follows that the Council had not behaved unreasonably in respect of a failure to substantiate a reason for the decision that led to the appeal.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for costs fails.

William Cooper

INSPECTOR