
Costs Decision

Site visit made on 7 August 2019

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2019

Costs application in relation to Appeal Ref: APP/A2525/W/19/3228716 Land at 2 Carrington Road, Spalding PE11 1LY

- 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 Centric Homes Ltd for a full award of costs against South Holland District Council.
 - The appeal was against the refusal of planning permission for the erection of a bungalow to include the demolition of existing industrial premises.
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Decision

1. The application for an award of costs is partially 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 costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant does not consider that the Council has properly assessed previous planning permissions that were granted on the site for the conversion of the industrial unit to a residential dwelling. The permissions in question date from 2007 and 2011 and are listed in the Council's delegated report but are not discussed in detail. However, no evidence has been submitted by either party to suggest that the 2007 or the 2011 permissions are still capable of being lawfully implemented. This being the case, and in the absence of these permissions representing a viable fallback position, I do not consider that the Council has acted unreasonably in the approach that it has taken.
4. The applicant considers that the Council has failed to consider the improvement in the living conditions of 2 Carrington Road that would arise as a result of the development. However, no evidence has been provided to demonstrate that harm is being caused by the existing use of the building. I therefore do not consider that the Council has acted unreasonably in its approach in this regard.
5. The applicant states that there is no acknowledgment of the improvement to the living conditions of the occupiers of No 2 by way of the introduction of a rear garden area. However, the Council's concerns related principally to the impact upon the character of the area and the impact upon the living conditions of the occupiers of No 2, with regard to noise and disturbance and loss of privacy. Therefore, whilst the Council has not referred specifically to any benefits that may arise from the garden area proposed, I do not consider that this constitutes unreasonable behaviour.

6. The applicant considers that the Council has introduced a further reason for refusal in the form of its objection to the size of the garden area available for the proposed dwelling. The Council made reference to the proposed garden size in its delegated report in respect of the outdoor amenity space that would be available. The garden would be small but whether it would be large enough to provide adequate amenity space is subjective and the Council was entitled to come to a different conclusion to me. I therefore do not find that the Council has acted unreasonably in this respect.
7. The applicant considers that the Council has failed to demonstrate that the character of the new build would be any different to the existing character of the site. The Council's delegated report provides limited explanation as to what it considers that the impact upon the character of the area would be and primarily refers to previous planning applications that were refused permission. Reference is made to backland development, but no acknowledgement is given to existing backland development in the surrounding area, including that immediately adjacent to the site. Furthermore, no reasonable or coherent explanation of what the harm would be over and above the existing development was put forward.
8. In addition, whilst the Council states that the development would be cramped due to its proximity to the site boundaries, no explanation is given as to how this causes harm to the character of the area, in comparison to the existing building that is present on site. The Council's appeal statement repeats the case put forward in the delegated report but does not add any substantive reasoning as to why the development would be harmful to the character of the area. I therefore consider that as neither the Council's delegated report or appeal statement set out clearly the harm that it considers would arise to the character of the area as a result of the development, the Council has acted unreasonably in this respect.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs, to cover the expense occurred by the applicant in contesting the Council's reason for refusal 1 relating to the character of the area is justified.

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 South Holland District Council shall pay to Centric Homes Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the Council's reason for refusal 1 which related to the character of the area; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to South Holland 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.

Graham Wraight

INSPECTOR