



Costs Decisions

Site visit made on 18 June 2019

by M Seaton DipTP MRTPI

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

Decision date: 10 September 2019

Costs application in relation to Appeal Ref: APP/D2510/W/19/3224726 The Old Chequers Inn, Croft Lane, Croft, Lincolnshire, PE24 4PF

- 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 George Bateman & Son Limited for a full award of costs against East Lindsey District Council.
 - The appeal was against the refusal of planning permission for the change of use of existing land to use for the siting of 10no. static caravans (total increase of 9no.) installation of 2no. bio treatment plants, change of use of agricultural land to amenity space, extension to existing access track and provision of car parking, in accordance with amended plan, amended Flood Risk Assessment and amended Historic Impact Assessment which were received by the Local Planning Authority from the applicant's agent on 4th and 8th September 2014, without complying with a condition attached to planning permission Ref S/039/01345/14, dated 3 June 2015.
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Costs application in relation to Appeal Ref: APP/D2510/W/19/3224728 The Old Chequers Inn, Croft Lane, Croft, Lincolnshire, PE24 4PF

- 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 George Bateman & Son Limited for a full award of costs against East Lindsey District Council.
 - The appeal was against the refusal of planning permission for a change of use of land for the siting of 13no. static caravans to provide an extension to the existing caravan site, without complying with a condition attached to planning permission Ref S/039/02359/15, dated 8 March 2016.
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Decisions

1. The applications are dismissed.

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. Whilst the Guidance sets out a series of examples of behaviour whereby either a procedural or substantive award of costs may be justified, neither list is stated to be exhaustive. The applications for costs are timely.
3. The applicant contends that the Council has acted unreasonably by failing to produce substantive evidence to support its reasons for refusal and has failed to recognise the material considerations advanced by the applicant which it is contended would allow the developments to proceed.

4. The applicant's submitted evidence highlights the site-specific Flood Risk Assessment (FRA) and absence of objection on the conclusions of the FRA by the Environment Agency, as material considerations in the determination of the proposals. In this respect, it is contended that the absence of any contrary technical evidence produced by the Council regarding the submitted FRA with the Council relying instead on the Local Plan Inspector's reasoning and conclusion to not include an exception to Policy SP19 of the East Lindsey Local Plan Core Strategy 2018 (the Local Plan), as well as the failure to take into account the aforementioned material considerations, are indicators of unreasonable behaviour.
5. However, I disagree with the applicant's contention. As set out in the Council's rebuttal to the Costs Application, the Council has clearly considered the FRA and the Environment Agency response as material considerations and has undertaken a weighting exercise in respect of this evidence and in the context of the relevant policy of the development plan, as they would be expected to do.
6. I accept that the Council has referred at paragraph 8.19 of the Officer Report to the Local Plan Inspector's reasoning in relation to the concerns over the use of the SFRA in the context of Policy SP19. However, in this regard and as I have also concluded in my own reasoning on the substantive matter, no further progress appears to have been made in respect of either a fundamental change to the flood risk data from that which was before the Local Plan Inspector, or evidence of any progress on the consideration of mitigation measures which might allow the relaxation of the current restrictions.
7. As I have drawn in conclusion, the submitted evidence does not demonstrate there to have been a material change in circumstances since the adoption of the Local Plan, as would be required by Section 38(6) of the Planning and Compulsory Purchase Act 2004. I therefore find the Council's decision to rely upon Policy SP19 and the comments of the Local Plan Inspector in justifying this position, to be both appropriate and entirely reasonable.
8. Therefore, on the basis of the above conclusions, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Seaton

INSPECTOR