



Costs Decision

Site visit made on 25 February 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Costs application in relation to Appeal Ref: APP/E2001/W/19/3242950 Thornwick Bay Holiday Village, North Marine Road, Flamborough YO15 1AU

- 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 Haven Leisure Ltd for a full award of costs against East Riding of Yorkshire Council.
 - The appeal was against the refusal of planning permission for the erection of a ranger station.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 submits that the Council has acted unreasonably because the proposed development was refused planning permission against the recommendation of Council Planning Officers and that, although being a more modest form of development than a similar previous planning application which was also refused by the Council against Officer recommendation, an additional design related policy has been referenced. Furthermore, the applicant considers that the reason for refusal is not founded on any rational or technical basis, that it is inconsistent with the approval of masterplan proposals for the overall holiday village and that no evidence has been provided to demonstrate that the proposal compromises the special character of the Heritage Coast through its visual impact or any perceived encroachment into undeveloped areas. The refusal of the scheme has therefore resulted in unnecessary delay and expense.
4. In response, the Council has stated that the introduction of the additional policy did not introduce any new issues and therefore no prejudice to the applicant has arisen, that the Planning Committee membership differed between the times that the two applications were considered and that the impact arising from the design and the impact upon the Heritage Coast are subjective matters. Although a masterplan has been approved, this does not include the provision of a ranger station and therefore their decision making has not been inconsistent, with each application being assessed on its own

merits. Furthermore, the Council considers that its concerns have been fully set out in the reasons for refusal and that these are clear.

5. Whilst I accept that it will have been frustrating to the applicant that the Council Members took a different view to that which was recommended by their Officers, they were entitled to take this course of action and it does not represent unreasonable behaviour. Furthermore, although the applicant may have anticipated that the amended appeal planning application would be successful in addressing the reasons why the previous planning application was refused, the Council Members were entitled to consider the new application on its own merits. Therefore, this too does not represent unreasonable behaviour.
6. The inclusion of an additional planning policy and the associated concern about the design of the proposal may have been unexpected to the applicant, but the Council has adequately justified and substantiated its concerns in this respect. This also does not therefore represent unreasonable behaviour. The masterplan that has been referred to and provided by the applicant does not include the specific development that is subject to the appeal. It does not therefore infer any suggestion on the Council's part that the appeal development would be supported or that their decision to refuse planning permission was unreasonable or inconsistent.
7. The matters of visual impact, design and encroachment, and any impacts arising upon the Heritage Coast, are judgements for the decision maker. In this respect, the Council has clearly outlined its concerns in its reasons for refusal and in its appeal statement. I have addressed these matters in my decision and I too have found that significant harm would arise. The Council has therefore not acted unreasonably in this respect either.

Conclusion

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

Graham Wraight

INSPECTOR