
Costs Decisions

Site visit made on 30 June 2020

by Matthew Birkinshaw BA(Hons) MSc MRTPI

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

Decision date: 18th August 2020

**Costs application in relation to Appeal Ref: APP/E2001/W/20/3251480
Land adjacent to the A1079/A1174/A1035 Killingwoldgraves Roundabout,
Beverley, HU17 8QF**

- 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 BP Oil 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 roadside services to include petrol filling station with ancillary retail floor space.
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**Costs application in relation to Appeal Ref: APP/E2001/H/20/3245367
Land adjacent to the A1079/A1174/A1035 Killingwoldgraves Roundabout,
Beverley, HU17 8QF**

- 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 BP Oil Ltd for a full award of costs against East Riding of Yorkshire Council.
 - The appeal was against a refusal to grant express consent for the display of 1 double sided internally illuminated ID totem sign, 4 internally illuminated fascia signs (retail store) and 4 internally illuminated fascia signs (petrol filling station).
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Decisions

1. The applications for an award of costs are refused.

Reasons

2. The National Planning Practice Guidance states that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Awards against a local planning authority may be procedural, relating to the appeal process or substantive, relating to the merits of the appeal.
 3. The application is made on the grounds that the Council amended the description of development which mislead people into believing that the retail store was a standalone proposal, and, that the Council incorrectly referred to the site as within the Yorkshire Wolds Important Landscape Area. It is also claimed that the Council has not provided substantive evidence to support the second reason for refusal, has not had regard to its own decision to approve planning permission for a similar proposal nearby and has prevented or delayed development which should have clearly been permitted.
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4. The opening paragraph of the Planning Officer's report describes the proposal as a petrol filling station and associated retail store. In summarising the applicant's case paragraph 7.6 also confirms that the retail store is ancillary to the petrol station. When read as a whole, the nature of the development proposal was clear.
5. With regard to location, the Council accepts that the decision notice incorrectly refers to the site as falling within an Important Landscape Area. However, I have not seen any convincing evidence that this error has led to any unnecessary or wasted expense in connection with the appeal. The first reason for refusal claims that the petrol filling station and retail store, in combination with the ancillary built development, would appear as an alien feature that would harm the intrinsic character of the countryside. This is expanded upon by the Council in their written evidence, which identifies that the site is on the edge of the Yorkshire Wolds Important Landscape Area. It was therefore necessary for the applicant to produce evidence in order to deal with these matters at appeal.
6. The proposed retail store is intended to sell ancillary items to passing motorists, but may be used by local residents for some everyday essentials or by college students. Concerns regarding the potential impact of development on local village shops in Bishop Burton, Cherry Burton and Walkington were therefore legitimate. These concerns were expanded upon at appeal. The Council's written statement identifies that there would be the potential for a significant crossover between goods sold from the proposed retail store and goods on sale in the local village shops, with the convenience of access and on-site parking likely to draw trade away from surrounding villages. Some reasoned justification was therefore provided to support the second reason for refusal and substantiate the Council's position.
7. The approval of planning permission for a petrol filling station at the 'Teckno' site was dated 6 July 2020. The decision was therefore after the refusal of planning permission for the appeal scheme and after the Council's deadline for providing their written statement. As a result, it did not negate the need for the applicant to deal with the second reason for refusal at appeal.
8. Furthermore, the planning permission for 'Teckno' site is in outline only, with matters relating to the layout, scale, appearance and landscaping of the scheme yet to be determined. Whilst the Council may be unable to control the type of goods sold from the proposed shop, the precise size and scale of the building are yet to be determined. The proposal also involves the reuse of previously developed land and benefitted in part from an extant planning permission for commercial uses. As such, the circumstances are materially different.
9. Finally, the Council's written statement recognises the benefits of the appeal scheme but concludes that they are outweighed by the harm caused to the character and appearance of the area and the vitality and viability of local village shops. The Council has also identified conflicts with adopted development plan policy. Whilst I have found in favour of the applicant in my appeal decision, and this reflects the Planning Officer's report, it was not unreasonable for the Council to reach a different view which has been adequately supported at appeal.

10. I therefore conclude that unreasonable behaviour resulting in unnecessary expense in the appeal process, as described in the National Planning Practice Guidance, has not been demonstrated. For this reason, and having had regard to all other matters raised, an award of costs is not justified.

Matthew Birkinshaw

INSPECTOR