



Costs Decision

Site visit made on 25 August 2020

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 28/08/2020

Costs application in relation to Appeal Ref: APP/D2510/W/20/3249267 Land at Fair Field, Scremby Road, Partney, Lincolnshire

- 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 Mr G Avison for a full award of costs against East Lindsey District Council.
 - The appeal was against the refusal of planning permission for the erection of 2no. detached houses each with integral single garages.
-

Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal.
3. The basis of the appellant's application for costs is on the grounds that the Council acted unreasonably by failing to give appropriate weight to a previous appeal decision for development on the site. In addition, the appellant considers that the Council failed to substantiate its reasons for the refusal of planning permission and failed to give appropriate weight to the benefits of the proposal. These matters resulted in a consequential decision to refuse planning permission with additional professional fees being incurred in the submission of the appeal.
4. In considering the first ground for the award of costs, the relevant previous appeal decision was in respect of an outline planning application for the erection of residential development for up to 15 dwellings with all matters other than access reserved (Ref APP/D2510/A/14/2225402). In allowing the appeal, the Inspector concluded that he could '*find no reason in principle why conditions could not achieve a scheme of a high enough quality that it would complement the existing character of the village and so amount to good design*'.
5. It is an established planning principle that each application has to be considered on its own individual merits. I agree with the Council that the appeal decision did not imply that all proposed designs would be acceptable, particular as this was an outline application with all matters reserved other

than access. Such detailed design matters were to be the subject of further consideration by the Council. The Inspector did not consider the detailed design issues in the current scheme before me.

6. The previous appeal is acknowledged by the Council as being a material consideration. It was identified in the Officer Report and the Appeal Statement. However, it is not unreasonable for the Council to come to its own conclusions on the detailed design considerations of the current scheme, which were not before the previous Inspector, and to consider the appropriate weight to be given to that previous appeal. I also have only given limited weight to this decision and determined the appeal on the basis of the proposal before me and the site circumstances.
7. In conclusion on this ground I do not consider that the previous appeal decision implied that any design was to be considered acceptable. The Inspector was quite clear that these matters were to be considered further as part of reserved matters applications. It therefore follows that the subsequent consideration of the details of design should take into account the impact on the character and appearance of the area and the statutory duty to consider the effect on heritage assets. Consequently, I do not consider that the Council failed to give appropriate weight to the previous appeal decision.
8. Turning to the other grounds identified to support the award of costs, I consider that the reason for the refusal of planning permission as set out in the decision notice is specific and relevant to the application. It also clearly states the policies of the East Lindsey Local Plan Core Strategy (adopted in 2018) that the proposal would be in conflict with. This reason was adequately substantiated by the Council in the Officer Report and the Appeal Statement which demonstrate how the proposal would cause harm to the character and appearance of the area and the setting of heritage assets as a consequence of the orientation of the proposed dwellings in not having frontage to Skegness Road.
9. Although I found differently to the Council on these matters it does not mean that its concerns had no basis, was wrong in its approach or subjective judgement regarding the consideration of the impact on the character and appearance of the surrounding area and the impact on heritage assets. The extent to which the proposed development impacts on these issues is a matter of subjective judgement guided by policies contained within the development plan. The evidence provided in this appeal demonstrates that the Council properly considered the proposed development against the relevant policies contained within the Local Plan Core Strategy.
10. Section 6 of the Officer Report specifically identified that the continuous hedge line along the site frontage would suggest a rural appearance but considered that the proposal would not have any functional relationship with the street. The Council's subjective judgement on this matter is not unreasonable. It is a matter for the decision maker to consider the extent to which harm would be caused to the character and appearance of the area and the effect on the setting of heritage assets as a consequence of the proposed development. This is a subjective judgement relevant to policies contained within the development plan.
11. The views of the Council were adequately substantiated in the Decision Notice, and Officer Report, were relevant to policies in the development plan and

substantiated in the evidence provided in the appeal. Taking all of these matters into account, I find that the reason for the refusal of the planning application was complete, precise, specific and relevant to the application. I have found that the Council had reasonable concerns about the impact of the proposed development on the character and appearance of the area and on the setting of heritage assets which led to the decision to refuse the application. Although I have found differently from the Council this does not mean to say that the Council's concerns had no basis.

12. Accordingly, I do not find that the Council failed to properly evaluate the application or failed to properly consider the merits of the scheme. The reasons for the refusal of planning permission were adequately stated by reference to the appropriate policies contained in the development plan that the proposal was in conflict with. I have found that the Council had reasonable concerns about the harm to the character and appearance of the area and the effect on the setting of heritage assets which justified its decision. Therefore, the appeal could not have been avoided.
13. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and having regard to all other matters raised, an award of costs is not justified.

Stephen Normington

INSPECTOR