The Planning Inspectorate

Costs Decision

Site visit made on 22 September 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th October 2020

Costs application in relation to Appeal Ref: APP/D2510/W/20/3254543 Ambleside Cottage, Halfpenny Lane, Hallington, Louth, Lincolnshire LN11 9QU

- 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 John Douglas for a full award of costs against East Lindsey District Council.
- The appeal was against the refusal of planning permission for Planning Permission - Erection of a detached house with a detached double garage, 3 bay car port and store, on the site of an existing dwelling and outbuildings which are to be demolished.

Decision

1. The application for an award of costs is permitted in the terms set out below.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. It also states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. Unreasonable behaviour in the context of an application for an award of costs may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).

3. The applicant considers that the Council has not produced evidence to substantiate the reason for refusal, instead relying on vague, generalised or inaccurate assertions about the impact of the proposal which are unsupported by objective analysis.

4. The reason for refusal relates to the impact of the proposal on the character and appearance of the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) as the proposal would be located on an isolated prominent hilltop location within it. The Council's appeal statement indicates that due to its scale and design the proposed replacement dwelling would cause significant harm to the character of the open countryside.

5. However, the Council does not provide any substantive evidence to support this position other than stating that the landscape within the AONB is extremely sensitive to change. Furthermore, the Council's officer report does not at any point refer to the East Lindsey Landscape Character Assessment (LCA) or the

fact that a vernacular architectural style would be in keeping with the characteristics of the area.

6. Moreover, neither the Council's officer report or appeal statement consider the fact that given its location next to a tree-lined road that the proposal's impact on the landscape would be more limited as a result or indeed that it is in fact on a piece of land with a sloping gradient rather than a 'prominent hilltop'. They also do not acknowledge that there are other visual detractors in the area which mean that the sensitivity of the landscape surrounding the appeal site is medium/moderate rather than high which is in keeping with the guidance contained in the LCA.

7. In addition, both the Council's and appellant's appeal statements indicate that a proposed dwelling with a similar vernacular architectural style that is only marginally smaller than the appeal scheme has recently been granted planning permission. Consequently, it appears that the Local Planning Authority accept the principle of a dwelling larger than the existing one and with a more vernacular style on the appeal site contrary to what has been stated in their officer report.

8. Accordingly, in the overall planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary the Guidance and the appellant has been faced with the unnecessary expense of lodging the appeal.

9. As a result, I find the Council has behaved unreasonably by producing vague, generalised or inaccurate assertions about the impact of the appeal proposal which are unsupported by any objective analysis. I also find unreasonable behaviour in the Council's failure to produce adequate evidence to substantiate the reason for refusal on appeal.

10. I therefore conclude that procedural unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated and that an award of costs is justified.

Costs Order

11. 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 East Lindsey District Council shall pay to Mr John Douglas, the full costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to East Lindsey 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.

C Coyne

INSPECTOR