



Costs Decision

Site visit made on 11 February 2021

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2021

Costs application in relation to Appeal Ref: APP/D2510/W/20/3246063 Manor Farm, Brinkhill Road, South Ormsby LN11 8QS

- 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 South Ormsby Community Interest Company 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 land and agricultural buildings to use as a heritage centre comprising of a storage unit; business/estate office; conference/community room and toilets. Erection of a two storey building to use as a cafe with food preparation room; stores; toilets and seating area including outdoor terrace with loggia and exhibition and gallery area to the first floor. Extension to an existing single storey storage building to provide a storage unit and food/craft unit with kitchen and toilet. Some existing agricultural buildings on site to be demolished. Erection of a cattle shed building and a plant building. Provision of an outdoor seating/picnic area and a car park. Excavation of a pond. External alterations to an existing farmhouse which is a listed building. Alterations to existing vehicular access and access track
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Decision

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

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.
3. The applicant considers that the Council has failed to produce evidence to substantiate its reason for refusal either at all or reasonably. The Council considered the planning application at a number of its meetings and, although officers recommended that the application be granted, Councillors resolved to refuse the planning application for one reason, alleging that the increase in traffic and vehicle movements in and along the access road as a result of the development and the subsequent activity and disturbance would result in a significant harmful impact on the amenities and living conditions for the occupiers of The Old Post Office.
4. The fact that the application was refused contrary to officer recommendation, is not in itself unreasonable behaviour. In this respect I note that at paragraph 7.26 of the Committee report to the 1 August Planning Committee, the Officer notes that the issue regarding the impact on the amenity of the occupiers of The Old Post Office is very finely balanced and concluded that the harm was

not significant enough to warrant refusal. However, members took a different view.

5. The applicant submitted a Traffic Noise Technical Note June 2019 (TNTN), which concluded that, in terms of noise, there would be a very negligible increase in noise caused by the proposal. However, this assessment is in respect of the level of noise only. As the Council's Environmental Health Officer (EHO) states while the TNTN uses a recognised and accepted method of sound calculation, it does not inform the reader of the short term sound levels as the vehicles pass by. While the EHO accepted the report and its findings they considered that there would still be a degree of disturbance to The Old Post Office.
6. It is that degree of disturbance which involves the frequency of traffic, both during the day and different times of the year, together with the specific on site conditions that the Councillors, some of whom had been on site, made a judgement on and found that the living conditions of the occupiers of the adjacent property would be unacceptably harmed. I have reached the same conclusion in my decision, based on the evidence before me and my observations on my site visit.
7. I am satisfied therefore, there is sufficient information before me to enable me to understand the case made by the Council which considered the provision in the light of relevant policy as evidenced by the application report. It has produced a cogent statement of case which details the reasons for refusal. I am satisfied that it advanced a case that, in its opinion, indicated that the proposal was contrary to the development plan and the National Planning Policy Framework. Consequently, the Council did not act unreasonably in this matter.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, for the reasons given above, I refuse the application for an award of costs.

Zoe Raygen

INSPECTOR