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## Costs Decision

Site visit made on 12 April 2021

**by Chris Baxter BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 May 2021**

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### **Costs application in relation to Appeal Ref: APP/N3020/W/21/3267371 Land at Burton Road, Carlton, Gedling, NG4 3GP**

- 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 I Jowett of IDD Commercial Limited for a full award of costs against Gedling Borough Council.
  - The appeal was against the refusal of planning permission for construction and operation of a hand car wash and valeting business to include construction of canopies and welfare building.
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### **Decision**

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

### **Reasons**

2. Paragraph 030 of 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. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include failure to provide 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.
4. The appellant has stated that the planning committee were unaware of the screening at the site and that some of the committee members had not visited the site. The Council have indicated that pictures of the site were shown in the committee presentation. It will be seen from my decision that I consider the scheme to be contrary to development plan policies in respect of effects on character and appearance. Such issues are subjective in matter and the Council's statement of case clearly discuss why the proposal is considered unacceptable in relation to the development plan. I am therefore satisfied that the Council have not acted unreasonably in this regard.
5. Whilst the Council is not duty bound to follow advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this case, the Environmental Health Officer had not raised any objections to the proposal in terms of adverse effects on living conditions of neighbouring occupiers in respect of noise. It is also noted that the appellant had submitted acoustic information as part of the planning application. The alleged harm to amenity has not been substantiated other

than by means of vague assertions with little evidence from the Council to support the reason for refusal on this issue. Whilst the Council may have acted unreasonable in this instance, this matter would not have prevented the submission of an appeal. Given my findings on the appeal decision I also find that the appellant has not incurred any additional expense as a result of this.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Chris Baxter*

INSPECTOR