



Costs Decision

Site visit made on 11 May 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Costs application in relation to Appeal Ref: APP/Y2003/W/20/3262825 Land to the south of St Martins Road, Scawby DN20 9BQ

- 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 Trustees of Lt Col R Sutton Nelthorpe's Will Trust 1 May 2002 for a full award of costs against North Lincolnshire Council.
 - The appeal was against the refusal of planning permission for outline residential development including means of access for up to 48 homes.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the 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 appellants submit that the Council has behaved unreasonably in a number of respects.
4. First, they consider that there are no cogent reasons why this development should not go ahead, including technical issues. However, I have concluded that the appeal should be dismissed on grounds including highway safety, specifically in respect of access for pedestrians and cyclists. Whilst this issue is not directly referred to in the Council's reason for refusal or by the Highways Authority, concerns on this matter were raised during the application process and the minutes of the Planning Committee indicate that access issues were discussed. The appellants should therefore have been aware of issues relating to access for pedestrians and cyclists and they have not adequately addressed this as part of the application or appeal process. I have concluded that there are cogent highway safety reasons why the proposal should not proceed, and in this respect the Council's decision has not led to preventing or delaying a development which should clearly be permitted.
5. Second, they consider that the Council has failed to substantiate its reasons for refusal. The Council's Statement of Case is limited, and emphasises the subjective nature of assessing character and appearance as well as limited reference to sustainability and highway infrastructure. However, the concerns of Members are set out in the minutes of the Planning Committee, and I have agreed with concerns relating to access as well as character appearance, albeit

to a limited degree in relation to the latter. On that basis the Council's concerns are not so unsubstantiated as to represent unreasonable behaviour.

6. Third, that the Council has made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by objective analysis. With regards to character and appearance, the Council's concerns are expressed in general terms. However, I have found that the proposal would harm the character and appearance of the setting of the settlement, and whilst that harm would be limited I do not consider that the Council's concerns are so unsupported as to represent unreasonable behaviour. I have also identified clear issues in respect of pedestrian and cyclist safety and, despite the lack of objection from the Highways Authority, concerns on this matter are supported by objective analysis.
7. Reference has also been made to the Council not determining similar cases in a consistent manner. However, I consider that issues relating to highway safety are particular to this site, as is the resultant effect on the sustainability of the proposal. Consideration of character and appearance is also a subjective matter based on the circumstances of each site.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

David Cross

INSPECTOR