

Costs Decision

Site visit made on 2 August 2021

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2021

Costs application in relation to Appeal Ref: APP/Y2003/W/21/3268393 Land north of Ings Lane, Hibaldstow DN20 9PJ

- 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 Partner Construction for a full award of costs North Lincolnshire Council.
 - The appeal was against the refusal of planning permission for development to erect 20 dwellings comprising 10 rent to home buy, five shared ownership and five open market dwellings.
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Decision

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

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 makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal; provides vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; or prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The Council is not duty bound to follow advice of its professional officers however, if a different decision is reached then 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 applicant had provided substantial evidence with regards to local housing need and Council Officers had raised no objections to this. Little evidence has been provided by the Council to support the reason for refusal and the assertion that this is insufficient evidence in relation to housing need, other than vague comments that the settlement of Hibaldstow already has its allocation of social housing. I have found in this regard that the Council have acted unreasonably.
5. The applicant considers that the Council have failed to provide clarity on elements of the policies listed in the reasons for refusal. The Council's statement of case does provide a comprehensive assessment with regards to the second reason for refusal in relation to character and appearance. The

Council also draws a conclusion on this matter having regard to the National Planning Policy Framework. I therefore do not consider the Council have acted unreasonably in this regard. With regards to the first reason for refusal, I have accepted above that the Council have failed to produce evidence to substantiate this reason.

6. The applicant has indicated that there was a lack of officer presentation at the committee meeting. The Council have responded stating "*that a representative of the Local Planning Authority attends each planning committee meeting and provides planning advice on items where it is considered necessary and reasonable to do so.*" On this basis I do not consider that the Council have behaved unreasonably in this regard.
7. The Council, in respect of the first reason for refusal relating to housing need, have provided vague and generalised assertions about the proposal's impact, which are not supported by any objective analysis and have therefore failed to produce evidence to substantiate the refusal reason. This constitutes unreasonable behaviour contrary to the guidance in the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.
8. I therefore conclude that a partial award of costs, to cover the expense incurred by the appellant in contesting the Council's first reason for refusal, is justified.

Costs Order

9. 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 North Lincolnshire Council shall pay to Partner Construction the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the Council's first reason for refusal, which related to insufficient evidence to prove demonstrable need for affordable housing.
10. The applicant is now invited to submit to the 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.

Chris Baxter

INSPECTOR