

Costs Decision

Site visit made on 23 November 2021

by E Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 March 2022

Costs application in relation to Appeal Ref: APP/N2535/W/21/3270518 Land at the corner of Spital Street and North Street

- 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 Steven Ralff for a full award of costs against West Lindsay District Council.
 - The appeal was against the refusal of planning permission for change of use of land to Park. Stationing of vehicle for hot and cold foods. Provision of seating. Provision of raised area for seating, activities and entertainment. Provision of seating benches. Provision of wooden picket fencing at 1.5 metres height. Provision of metal storage shed. Provision of wheelie bin womery.
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Decision

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

Procedural Matter

2. The application for costs does not indicate if a full or partial award is sought. However, since the appellant considers the appeal to be unnecessary, I have considered the application as being for a full award of costs.

Reasons

3. The National Planning Guidance (the Guidance) advises that where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
 4. One of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities and only rely on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay.
 5. The appellant refers to two examples of unreasonable behaviour set out in the Guidance. Preventing or delaying development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations, and refusing planning permission on a planning ground capable of being dealt with via conditions.
 6. Whilst the appellant indicates that these points are discussed in detail in the appeal statement, no further details are given in the costs application. Additionally, matters of unreasonable behaviour and wasted expense are not specifically addressed or explained in the appeal statement.
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7. The Guidance¹ is clear that any application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. The appellant's appeal statement considers the discussion of the appeal scheme at planning committee in some detail and raises concerns in this regard. These centre on the alleged the pre-determination of the scheme by elected members but do not allege unreasonable behaviour. That said, the appellant's reply to the Council's costs response indicates that the elected members considered non-planning matters, failed to take account of the updated Conservation Officer's comments, and refused to enter into discussion with the committee members/the case officer to allow points to be addressed. It is these actions that the appellant considers to be unreasonable.
8. The Guidance indicates that costs cannot be claimed for the period during the determination of the planning application. Whilst I am able to consider behaviour and actions at the time of the planning application, costs can only be awarded in relation to unnecessary or wasted expense at the appeal. As set out in my Appeal Decision, I have found that proposed development would be harmful and have dismissed the Appeal. I have come to this view based on all the evidence before me. On this basis, I am not persuaded that the Council has relied on reasons for refusal which do not stand up to scrutiny on the planning merits of the case, or added to development costs through avoidable delay. Thus, since the appeal could not have been avoided, the appellant has not been put to unnecessary or wasted expense.
9. In line with the advice in the Guidance, for the reasons set out in my Appeal Decision, since I consider that the local planning authority has refused a planning application for a proposal that is not in accordance with the development plan, and no material considerations including national policy indicate that planning permission should have been granted, there is no grounds for an award of costs against the local planning authority for the unreasonable refusal of the application.
10. I am therefore content that the Council has not behaved unreasonably and the appellant's costs in mounting the appeal were not unnecessarily incurred. Consequently, the application for an award of costs is refused.

E Worthington

INSPECTOR

¹ Paragraph 032 Reference ID: 16-032-20140306