



Costs Decision

Site visit made on 14 March 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Costs application in relation to Appeal Ref: APP/B2002/W/21/3284085 184 Waltham Road, Grimsby DN33 2PZ

- 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 Keys Group Limited for a full award of costs against North East Lincolnshire Council.
 - The appeal was against the refusal of planning permission for the change of use of dwelling to a residential care home for up to 5 young people.
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Decision

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

Reasons

2. The application for an award of costs will be familiar to both parties. Consequently, I shall not repeat the submission in full within this decision.
3. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour or no wasted expense an award will not be justified.
4. The applicant seeks an award of costs on the basis that the Council has not properly exercised their development management responsibilities and has relied on reasons for refusal which do not stand up to scrutiny. The applicant also states that the Council has prevented (or delayed) development that should clearly be permitted having regard to the proposal's compliance with both local and national planning policies. In addition, the applicant considers that the council has not determined similar cases in a consistent manner. They assert that the refusal of the application has led to unnecessary costs and avoidable delays.
5. The applicant considers that the Council has failed to produce evidence to substantiate each reason for refusal and vague, generalised or inaccurate assertions have been made about the proposal's impact, which are unsupported by any objective analysis. The local highway authority did not object to the proposal during the application stage and the committee report did not raise any concerns relating to highway matters. They assert that the Council, including the highways statement, has not provided any evidence to justify the change in stance.

6. The Council highlight that Council Members are entitled not to accept the professional advice of their officers so long as a case can be made for a contrary view and having made that decision it is proper for the Council to defend that decision. They also state that the approved planning application is some distance from the site and planning decisions are made on the individual merits of the case having regard to material planning considerations which pertain to it.
7. Council Members are entitled to go against the professional advice of Officers as long as it is clearly demonstrated why the proposal is unacceptable and clear evidence is provided to substantiate that reasoning. The Council's Statement of Case and reasons for refusal were clear and sufficient evidence was submitted to support the Council's stance. The application required an exercise of planning judgement. While I do not agree with the Council's decision, adequate evidence was submitted to show that the Council did not apply its judgement in an unreasonable manner.
8. Furthermore, the appeal scheme cannot be directly compared with the approved application at New Waltham due to the context of the site and number of young people occupying the home. Consequently, I do not consider that the Council has prevented development that should clearly have been permitted, having regard to its accordance with the development plan, national policy and other material considerations.
9. For the reasons set out above I conclude that, the applicant has not shown that the Council's refusal of planning permission was unreasonable and that no wasted or unnecessary expense has been incurred by the applicant in the appeal process. I conclude therefore, that the application for an award of costs should be refused.

L M Wilson

INSPECTOR