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## Costs Decision

Site visit made on 26 April 2022

**by Edwin Maund BA (Hons) MSc Dip UP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 May 2022**

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### **Costs application in relation to Appeal Ref: APP/E2530/W/21/3285057 Land to the south of 141 Stamford Street Grantham NG31 7BS.**

- 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 Robert Spencer, Spencer Construction (Homes) Ltd. for a full award of costs against South Kesteven District Council.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the erection of three attached dwellings with off street parking.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.
2. The Applicant submits that the Council has acted unreasonably in that it has without good reason failed to substantiate the objection on the grounds of the adverse effect on residential amenity due to the provision of parking on site.
3. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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.
4. 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 and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. The Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
6. The Council accept that the County Council parking standard which should be applied in this location, for dwellings of this size, would be met. While the proposal could displace parking on the road, little evidence was put forward by the Council to support the reasons why the scheme would have been refused and establish with objective analysis that there is an existing parking problem, and if so, how this would be made materially worse.
7. Nor has the alleged harm to amenity been substantiated other than by means of a vague assertion about increased inconvenience and difficulty in parking for some existing house occupiers or business users.

8. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been permitted. The failure to make a decision within the prescribed timeframe therefore constitutes unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG and the Appellant has been faced with the unnecessary expense of lodging the appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that an award of costs is justified.

### **Costs Order**

10. 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 South Kesteven District Council shall pay to Mr Robert Spencer of Spencer Construction (Homes) Ltd. the costs of the appeal proceedings described in the heading of this decision.
11. The Applicant is now invited to submit to South Kesteven District 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Edwin Maund*

INSPECTOR