



Costs Decision

Site visit made on 17 May 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2022

Costs application in relation to Appeal Ref: APP/G2435/W/21/3288015 Land off Lountside, Ashby De La Zouch, Leicestershire

- 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 EG Group Limited for a full award of costs against North West Leicestershire District Council.
 - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission for the erection of a road related storage, maintenance and management facility and associated site works (reserved matters to outline planning permission ref. 17/01081/OUTM).
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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. 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.
3. The applicant seeks an award of costs on the basis that the Council has behaved unreasonably which has caused them to incur unnecessary and wasted expense in pursuing the appeal. They consider that it is not appropriate or relevant to consider the application in deference to Policy S3 of the North West Leicestershire Local Plan (2021) (LP) due to the outline consent. Furthermore, they assert that the Council did not have reasonable or valid planning grounds for taking a decision contrary to the advice of its own professional and technical officers and likewise has failed to produce evidence to substantiate the reason for refusal.
4. The Council highlight that the reason for refusal is not based on the principle of development within the countryside and it is only possible to assess some of the criteria at reserved matters stage. Furthermore, Local Planning Authority Planning Committees are not bound to accept the recommendations of their officers, but should nevertheless be able to produce relevant evidence to support their decision. They also state that the applicant's case does not set

out in what way the alleged unreasonable behaviour has resulted in unnecessary or wasted expense.

5. I acknowledge that the applicant worked proactively with the Council and amended the scheme which was considered acceptable by the Council's professional officers. Nonetheless, 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.
6. As set out in my appeal decision, even though outline consent has been granted, I consider Policy S3 is relevant and even if it was found that was not the case, I am not convinced that it would have resulted in a different outcome as the scheme was also found to be contrary to Policy D1 of the LP and the Framework. The Council's Statement of Case and reason for refusal were clear and sufficient evidence was submitted to support the Council's stance. The application required an exercise of planning judgement. Adequate evidence was submitted to show that the Council did not apply its judgement in an unreasonable manner.
7. Consequently, I do not consider that the Council has prevented development that should clearly have been permitted, having regard to the development plan, national policy and other material considerations. For the reasons set out above, 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