



Costs Decision

Site visit made on 12 April 2022

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 29th June 2022

Costs application in relation to Appeal Ref: APP/Y2003/W/21/3284844 Land to the rear of Minster Day Care Centre, Chesterfield Road, Scunthorpe DN15 7UP

- 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 Peter Lee of Villawood Homes Ltd for full costs against North Lincolnshire Council.
 - The appeal was against the refusal for planning permission for the development described as 'construction of 10 no. new affordable homes and associated parking'.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. PPG indicates that local planning authorities will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate each reason for refusal.
4. This application for costs contends that the Council's Committee acted unreasonably in overturning a Council Officer's recommendation that the application be approved, and that this has resulted in unnecessary wasted costs in pursuing an appeal. The appellant also contends that the reasons for refusal were imprecise and unsubstantiated and wholly contrary to officer advice. They advise that the Committee failed to consider the reduced privacy impacts associated with the limited use of the day care centre's rooms facing the development. They also cite the Committee's failure to take into account the Council's lack of a five year housing land supply, the positive and appropriate form of sustainable development proposed or the benefits in delivering affordable dwellings.
5. In its response, the Council state that planning decisions are the ultimate responsibility of democratically elected councillors, accountable to their communities, whilst Planning Officers are responsible to the Council that employs them in exercising their professional judgement. It further advised that having a Committee which arrives, through a balanced assessment of the various considerations, to a different conclusion to the Officer, is not

intrinsically wrong and to be expected. The Council further affirmed that the correct procedure was followed at the meeting, the Committee gave due weight to all matters raised in the report and the refusal notice substantiated and precisely detailed the reasons for refusal.

6. The officer's report did consider all the above matters raised by the appellant and, while the Officer concluded that adverse impacts did not outweigh the benefits, the Committee did not agree with this. Good design and impact on living conditions are key aspects of sustainable development and it is a matter of judgement on balancing adverse impacts and benefits. The Committee meeting minutes indicate that the appellant did speak at the meeting and therefore, had the potential opportunity to persuade the Committee of the benefits of the proposal. It is also however evident that the Committee within the meeting did raise concerns about the design in terms of scale and effect on privacy and that the reason for refusal directly refers to these.
7. Notwithstanding that it will be seen from my decision that I disagree with the Committee I conclude that the Committee were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view. The reason for refusal on the decision notice was clear and precise in relation to the considered harm to living conditions and makes reference to relevant local plan policies. Although I have reached a different judgement on the planning merits of the case, this does not mean that the Council acted unreasonably in taking its decision.
8. I do not consider that the Council has failed to properly evaluate the proposal. I have found that the Council had reasonable concerns about the impact of the proposal that justified its decision. The appellant had to address those concerns in any event. The appeal could not therefore have been avoided.
9. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

J Symmons

INSPECTOR