



Costs Decision

Site visit made on 28 June 2022

by Ryan Cowley MPlan (Hons) MRTPI

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

Decision date: 24th August 2022

Costs application in relation to Appeal Ref: APP/Y2003/W/22/3295212 The Croft, 10 Commonsides, Westwoodside DN9 2AP

- 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 Mrs Nicky Senior for a full award of costs against North Lincolnshire Council.
 - The appeal was against the refusal of planning permission for 'demolition of existing house and construction of 2 no detached dwellings with associated garages'.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably where the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant for costs considers that the second and third reasons for refusal put forward by the Council were not substantiated and were contrary to the advice of their own officers and consultees.
5. In respect of the third reason for refusal, this is set out clearly in the Council's decision notice and, whilst contrary to the planning officer's recommendation, discussions on this matter are evidenced in the minutes of the planning committee meeting of 20 October 2021, in which the application was refused.
6. Furthermore, the reason is reflective of the Council's Historic Environment Officer's (HEO) comments regarding the application who, whilst accepting the principle of two dwellings along the frontage of the site, ultimately recommended refusal of the application due to the size, scale and massing of the proposals in this instance.
7. In this case I have noted the recommendation of the planning officer, which is contrary to that of the HEO. However, the decision is one which is a matter of judgement. The planning committee in this case is entitled not to accept the

advice of the planning officer so long as a case could be made for the contrary view.

8. It will be seen from my decision that I agree with the planning committee and the HEO that there were sufficient grounds for refusing planning permission based on the harm to the historic landscape. It follows that I am satisfied that the Council did substantiate this reason for refusal. I therefore cannot agree that the Council has acted unreasonably in respect of this matter. As such there can be no question that the applicant was put to unnecessary or wasted expense as a result.
9. Notwithstanding this, the second reason for refusal set out in the Council's decision notice is brief and does not elaborate any further on why the Council considers the proposal fails to demonstrate safe access and egress, other than it being located on a "narrow rural road". The reason is therefore ambiguous.
10. It also does not reflect the comments of the Council's Highways department with respect to the planning application, who raised no objections to the proposal but instead advised a number of planning conditions be imposed should planning permission be granted. This advice was reflected in the planning officer's report and recommendation to the planning committee.
11. There appears to be no discussion concerning this reason for refusal evidenced in the minutes of the planning committee meeting. The Council has also provided no further clarification on this in their statement of case, or costs application rebuttal, other than to state the planning committee is entitled to reach its own decision.
12. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council must clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. No information has been provided by the Council to substantiate this reason for refusal, or to otherwise demonstrate why the conditions recommended by the Council's Highways department could not be applied to make the development acceptable in respect of its effect on highway safety.
13. It is therefore my judgement that the Council acted unreasonably in applying the second reason for refusal. However, the applicant has not put forward any evidence to demonstrate how this additional reason for refusal has resulted in them incurring unnecessary or wasted expense in the appeal process, particularly as the application would justifiably have still been refused based on the other reasons, and so the appeal would have occurred in any event.

Conclusion

14. I therefore conclude overall that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Ryan Cowley

INSPECTOR