The Planning Inspectorate

Costs Decision

Site visit made on 20 September 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2022

Costs application in relation to Appeal Ref: APP/N2535/W/22/3291802
Land to south of Clixby Lane, Grasby, Lincolnshire DN38 6AH

- 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 DJ & JM Frankish for a full award of costs against West Lindsey District Council.
- The appeal was against the refusal of 'Outline planning application for the erection of up to 4no. dwellings with access to be considered and not reserved for subsequent applications - resubmission of 141429'.

Decision

1. The application for a full award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) explains how costs may be awarded against a party who has behaved unreasonably, and thereby directly caused another party to incur unnecessary expense at appeal.

3. Paragraph 49 of the PPG makes clear that local planning authorities are at risk of an award of costs if they prevent or delay development that should clearly be permitted, fail to produce evidence to support each reason for refusal on appeal, or make vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. The applicant's case for a full award of costs is that the Council issued an unsubstantiated refusal contrary to the recommendation of its planning officers.

4. I acknowledge that the Council's Planning Committee determined that planning permission should be refused, contrary to the officers' recommendation. Whilst the Planning Committee is not duty bound to follow the advice of its officers or consultees, if a different decision is reached the Council has to clearly demonstrate why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.

5. The Council's reason for refusal sets out its concerns: '*The development would not contribute towards a safe transport network for pedestrians or vehicular movement when considering the impact on Clixby Lane and surrounding highway network. The development also fails maximise pedestrian permeability and avoid barriers to movement through careful consideration of street layouts and access routes.*'

6. These reasons for refusal are supported by the reasoning in the Council's appeal statement. Having regard to the Committee Transcript, it is clear that there were a range of views aired. The planning officer mentions the turning areas and passing place in their presentation. The Committee Report also refers to the Transport and Access Technical Note[1] and summarises the development proposals and the differences with the previous application. Whilst there was some apparent confusion over the position of a passing place, it is nonetheless clear from the transcript that the Planning Officer and Chair sought to clarify these matters at the meeting.

7. Although I note that the Council's Appeal Statement does not mention the estimated number of vehicle movements included in the Transport Access and Technical Note, they are referred to in the Committee Report. I am therefore satisfied that they have been taken into account.

8. I accept that the applicant had sought to address the concerns raised previously, however Council members were entitled to take an opposing view. Indeed, it is clear from the Transcript that Members did not feel that the changes had addressed the previous concerns, including the comments of the previous Inspector. On the basis of what is before me, I am satisfied that this judgement was exercised reasonably. For these reasons the refusal was not unsubstantiated.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Martinson

INSPECTOR

[1] Transport and Access Technical Note by SLR, dated July 2021.