



Costs Decision

Site visit made on 14 October 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 NOVEMBER 2022

Costs application in relation to Appeal Ref: APP/A3010/W/22/3291976 Land between Pinders Croft and the Chapel, High Street, Walkeringham, Doncaster DN10 4LW

- 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 Colin Holden (Chilli Construction Ltd) for a full award of costs against Bassetlaw District Council.
 - The appeal was against the refusal of an application for the approval of details pursuant to condition No 1 of planning permission Ref 17/00353/OUT, granted on 26 January 2018 under appeal Ref APP/A3010/W/17/3184900.
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Decision

1. The application for a full award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. Local planning authorities risk an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing applications or unreasonably defending appeals. The PPG adds that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, but that behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
4. The appellant contends that the Council's planning committee failed to heed or understand the committee report; that the debate at the meeting ranged widely on subjects not relevant to the reserved matters application; and that the effect on character and appearance was put forward as a reason for refusal despite not having been debated. It is contended that the committee failed to acknowledge that the site had a valid outline planning permission and that the principle of development could not be revisited.
5. Council officers recommended the application for approval. Whilst elected members are not duty bound to follow officers' recommendations, if a different decision is reached the Council must clearly demonstrate on planning grounds why a proposal is unacceptable and substantiate that reasoning. In addition to not responding to the application for costs, the Council has not produced a statement of case in respect of the appeal.

6. The minutes of the committee meeting provided appear to validate the appellant's claim that those who spoke at the meeting, whilst raising points which related to some reserved matters, also discussed a wide range of matters extending beyond the scope of the reserved matters. The subsequent reasons for refusal make it clear that members considered matters which were outside of the scope of the application. Whilst I appreciate that those present had wide ranging concerns with the proposal, the minutes record that the Planning Development Manager clarified to members that only the reserved matters being applied for could be considered. The resulting reasons for refusal indicate that this advice was not followed by the committee. The minutes also do not indicate that any substantive debate took place to justify the reasons for refusal, which were formalised several weeks after the committee meeting.
7. Moreover, despite the fact that the decision was made contrary to officers' recommendations and that the committee minutes were less than robust in setting out the reasons for its decision, the Council has subsequently failed to produce any evidence at appeal stage. As such, the Council could not substantiate its reasons for refusal in this case, even for those reasons which pertained more closely to the reserved matters, namely Nos 1 and 4. The only points made are short bullet points within the minutes of the planning committee, with nothing to indicate how members subsequently debated the matters and formulated the reasons for refusal. Ultimately, the Council's evidence amounts to brief, vague assertions of generalised concerns, absent any cogent reasoning to counter the conclusions of council officers in the committee report.
8. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the application should reasonably have been permitted in respect of the reserved matters sought. Its refusal by the Council, including for reasons not related in substance to any of the reserved matters, with no subsequent evidence provided to support any of the reasons, constitutes unreasonable behaviour contrary to the basic guidance of the PPG and the applicant has been faced with the unnecessary expense of lodging the appeal.
9. On the evidence before me, the entire appeal would have been unnecessary but for the Council's actions, and I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full 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 Bassetlaw District Council shall pay to Mr Colin Holden (Chilli Construction Ltd) the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the 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.

K Savage INSPECTOR