The Planning Inspectorate

Costs Decision

Site visit made on 16 February 2023

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Costs application in relation to Appeal Ref: APP/Y2003/W/22/3299625
Land to the east of Kingsway Road, Scunthorpe DN16 2AE

- 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 Almscliffe Dhesi Developments, Scunthorpe, Ltd for a full award of costs against North Lincolnshire Council.
- The appeal was against the refusal of planning permission for the construction of two retail units and one drive-thru unit (all Use Class E) with associated access, parking, drainage and landscaping.

Decision

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

Reasons

2. The 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. The applicant considers that it has incurred significant additional costs as a result of the Council's refusal of the planning application despite what the applicant views as clear planning justification for approval of the application.

4. The planning application was refused against the officer recommendation. A planning decision is one though of a matter of judgment and the Council Members are entitled not to accept the professional advice of their officers so long as a case can be made for a contrary view. The Council's decision was based on the effect on the amenity value of trees, including those which are protected, and the effect on the vitality and viability of Scunthorpe Town Centre, Ashby High Street District Centre and Brumby Corner. These are relevant planning considerations in this case.

5. The reasons for refusal are themselves precise, specific and relevant to the planning application, clearly explaining on what grounds the Council considered the proposal to be unacceptable. The development plan policies cited are also pertinent to the reasons for refusal.

6. In addition, the Council's appeal statement amplifies the reasons for refusal by way of commenting on the applicant's case. While I disagree with the Council's decision, this is not a case where a contrary view could not be taken. The proposal would involve both the loss of protected trees and town centre uses in

a location which is out of centre. Furthermore, approving the application would have involved the Council taking a decision which is contrary to the development plan. To say there is clear planning justification for approval of the application is not therefore reflective of the main issues.

7. Although I note comments in the applicant's statement of case over when clarification was sought at the Planning Committee as regards the reasons for refusal, the Committee minutes adequately and clearly set out the Member's concerns. This does not amount to unreasonable behaviour and actions at the time of the planning application, in determining this application for costs.

8. I have also considered whether a partial award should be made, but I reach the same overall conclusion. The Council has provided sufficient evidence across all the grounds and so such an award of costs is also not justified.

9. As I have not found unreasonable behaviour, I do not have reason to consider whether unnecessary or wasted expense has been incurred. This is notwithstanding that some of the costs that have been put forward do not concern the appeal proceedings.

Conclusion

10. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not, therefore, justified.

Darren Hendley

INSPECTOR