



Costs Decision

Site visit made on 26 September 2023

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23/10/2023

Costs application in relation to Appeal A Ref: APP/Y2003/C/23/3322068, Appeal B Ref: APP/Y2003/W/23/3322073 and Appeal C Ref: APP/Y2003/W/23/3322075 at land forming parts of former Airfield, Redbourne Road, Hibaldstow DN20 9NW

- The application is made under the Town and Country Planning Act 1990, sections 78, 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Robert Borrill and Mr Ralph Day for a full award of costs against North Lincolnshire Council.
 - The appeals were against the refusal of planning permission for a temporary change of use for the storage of prefabricated units and against an enforcement notice alleging the material change of use of land from former airfield to land for open storage.
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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, 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 states that the two planning applications were dealt with by four different case officers over a period of seven months. This led to protracted discussions, with unnecessary repartition, and the determinations being made by officers under delegated authority rather than by planning committee as allegedly agreed with one of the four officers.
4. In addition, the applicant claims the Council's appeal case introduced additional reasons for refusing planning permission and issuing the enforcement notice. These additional reasons being the principal of development, lack of justification for a countryside location, and that other suitable sites were available and had not been considered.
5. The application therefore amounts to procedural and substantive claims of unreasonable behaviour. A full award of costs is sought.
6. The PPG advises that costs cannot be claimed for the period during the determination of the planning application. Behaviour and actions can be taken into account when considering whether or not costs should be awarded. The turnover of staff is unfortunate, but not unusual. I am told that the Council's scheme of delegation did not require the planning applications to be determined by the Planning Committee. Even if it did, the outcome of the planning applications need not have been any different. Furthermore, the

applicants could have exercised their rights and appealed the Council's failure to determine the applications within the statutory timeframe.

7. Notwithstanding the above, the application forms confirm that the development had already commenced at the time the planning applications were submitted. The delay in determining the applications did not therefore delay the commencement of development.
8. The PPG sets out a list of behaviours that could leave a local planning authority at risk of an award of costs. The list is not exhaustive and identifies, amongst other things, introducing new reasons for refusal that prolong the proceedings. The respondent argues that their Appeal Statement only expands and justifies the single reason for refusing the planning applications and issuing the enforcement notice.
9. The reason does identify that development in the countryside will be strictly controlled, then goes on to identify that the development is out of character with the open countryside and visually intrusive in the landscape. The reason also includes a list of policies to which the Council claims the development conflicts. The Council's Appeal Statement explains and justifies this reason, having regard to the detail contained within the identified policies. The principle of development and justification for a countryside location are matters identified in those policies.
10. The appellant addressed the countryside location in their Planning Appeal Statement at paragraph 4.5. This suggests that they were aware that the principal of storing prefabricated units in this countryside location needed to be addressed. The appellant also had an opportunity to respond to the Council's submissions, and I had regard to their response in my determination of the appeals. The statutory timeframes were adhered to. I am therefore satisfied that new reasons for refusal were not introduced during the appeal process, and the appeal proceedings were not prolonged.
11. Taking all these factors together, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M Madge

INSPECTOR