
Costs Decision

Site visit made on 4 March 2024

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 14 May 2024

Costs application in relation to Appeal Ref: APP/Y2003/W/23/3325318 Land to the rear of The Jolly Miller, Brigg Road, Wrawby DN20 8RL

- 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 J Godfrey-East for a full award of costs against North Lincolnshire Council.
 - The appeal was against the refusal of planning permission for the erection of 4 dwellings.
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Decision

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

Reasons

2. 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 process¹.
3. There are two claims to assess. Firstly, whether the Council failed to produce adequate evidence to substantiate its reason for refusal by making vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis. Secondly, whether the Council prevented development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. In relation to both claims, the officer recommendation regarding the application was to grant permission. However, planning authorities are entitled not to accept an officer recommendation, so long as reasonable planning grounds are given for taking a different decision.
5. The Council's reason for refusal explained that the harm that would be caused by virtue of the loss of countryside to development could not be overcome by good design at reserved matters stage. As a result, it explained that the proposal would be contrary to policies of the development plan and a paragraph of the National Planning Policy Framework ('the Framework') which seeks high quality design and the protection of the character and appearance of an area. At the time that the application was determined the Council had less than a 5 year housing land supply which meant that the so called 'tilted balance' in paragraph 11d) ii. of the Framework applied. Even though the reason for refusal did not refer to this balance, it is evident from the emphatic language used that in the Council's view the scheme would have failed to pass this test.

¹ Paragraph: 028 Reference ID: 16-028-20140306, 'Appeals', 'Why do we have an award of costs?'

6. Although for the reasons given in the appeal decision I did not agree with the Council, such matters are a question of planning judgement. Through the wording of its reason for refusal included in the minutes of the Planning Committee meeting on 7 June 2023, and the decision notice that was subsequently issued, the Council presented evidence that was sufficiently respectable to substantiate its decision to refuse permission. As a result, it did not act unreasonably.
7. Taking all these matters into account, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Ian Radcliffe

Inspector