



Appeal Decision

Site visit made on 28 August 2024

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2024

Costs application in relation to Appeal Ref: APP/Y2003/W/24/3343781 Former Lincoln Imp Public House, 29 Gloucester Avenue, Scunthorpe DN16 2EA

- 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 Shape Land & Property (Chris Smith) for a full award of costs against North Lincolnshire Council.
 - The appeal was against the refusal of planning permission for demolition of public house and erection of a two-storey residential building consisting of 20 affordable homes with associated car and cycle parking, bin storage, amenity space and landscaping.
-

Decision

1. The application is refused.

Reasons

2. Paragraph 030 of the Planning Practice Guidance (the PPG) indicates 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. Examples of unreasonable behaviour by Local Planning Authorities are set out in Paragraph 049 of the PPG.
4. The appellant states that the application was adjusted since the previous refusal in order to respond as positively as possible to concerns raised during that application. The application was recommended for approval by officers and overturned by Members at Planning Committee for the previous application and this current application. The minutes of the Committee meeting make reference to "nothing has changed" in reference to this application which demonstrates that Members had not taken the time and trouble to review the application.
5. The appellant also states that the revised application has shown that the premises have been marketed since 2022 and no offers have been received, and no other party has made a bid for the pub. All reasonable attempts have been made to source an operator for the pub. Members were unwilling to accept this position, but no counter evidence was offered. The second reason for refusal was not even mentioned at Committee, but just recited from the previous application refusal.
6. In conclusion, the appellant states that as a result, we consider that this constitutes unreasonable behaviour by the Local Planning Authority and costs are sought as a result.

7. The Council states that at the time of decision, having taken into account all evidence it has still not been adequately evidenced that there is no longer a need for the Lincoln Imp, which is a valued community facility. In addition to this there were a high level of objections against the proposals.
8. The Council also states that in relation to the second reason for refusal, the proposal clearly conflicts with Policy H5 in relation to private amenity space.
9. Ultimately, Members have the right to disagree with officer recommendations, and the decision was made in accordance with procedure and good practice guidance and the Council do not consider that it has acted unreasonably or prevented / delayed development that should have been permitted.
10. In this instance, having reviewed the evidence and the timeline for the planning application, I find no area that the Council has behaved unreasonably. They have negotiated with the applicant through the process. They have produced a measured justification for their reasons for refusal.
11. I have found that the Council's concerns with regard to the information supporting the application were justified, but in my opinion too much weight was attributed to the retention of a public house that has limited possibilities for reopening, and has been closed for two years, so the weight of it being a "valued community facility" was judged too highly in my professional opinion, albeit that my professional judgement was different from the Council in this instance.
12. With the second reason for refusal, whilst the proposal does not meet the wording of Policy H5, the harm caused is not material in this instance and a variation from the development plan is reasonable in my professional judgement.
13. Consequently, a refusal could be justified, and an appeal was necessary. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.
14. The application for an award of costs is refused.

Paul Cooper

INSPECTOR