



Costs Decision

Site visit made on 25 October 2024

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Costs application in relation to Appeal Ref: APP/R2520/W/24/3344027 5 Newark Road, Bassingham, Lincoln, Lincolnshire LN5 9HA

- 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 Messrs JP & S Newman for a partial award of costs against North Kesteven District Council.
 - The appeal was against the refusal of planning permission for development described as: 'erection of 3no. bungalows'.
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Decision

1. The application for a partial 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. Paragraph 49 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include failure to produce evidence to substantiate each reason for refusal on appeal or making vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by any objective analysis.
4. The applicants' costs claim is partly on the basis that the Council continued to erroneously refer to the property neighbouring the appeal site as 7 Newark Road in its appeal statement, despite the applicants pointing this out in their own appeal submission. Persisting with a clear error such as this within the delegated report, decision notice and appeal statement is confusing to the reader and clearly should have been corrected once it had been highlighted by the applicants. That the Council did not do so would amount to unreasonable behaviour. However, I am not convinced that, had the Council corrected its error, an appeal could have been avoided. Moreover, it is not clear from the applicants' evidence how this error has led to additional cost at appeal.
5. The second strand to the applicants' claim alleges that the Council has acted unreasonably through not providing any evidence to support its assertion that the proposal would be harmful to the setting of non-designated heritage assets, nor did it rebut the applicant's evidence provided at appeal in that regard.
6. I acknowledge that the Council's appeal statement is brief and has not referenced the applicants' photographic evidence and their appraisal of the

non-designated heritage assets. It also does not directly refer to the effect on the setting of non-designated heritage assets 1 Bakers Lane and the cemetery.

7. However there is reference to this effect in the delegated report and in the reasons for refusal which state: *'The loss of land that forms part of an open, green space around the cemetery and 7 Newark Road [1 Bakers Lane], within the Bassingham Conservation Area, and which would be occupied by the proposed dwellings, would have a detrimental impact upon the setting of these heritage assets by removing the open, green backdrop against which they have been historically associated.'* The importance the Council places on the open space contributing to the setting of the non-designated heritage assets is also clear from the Council's delegated report. The evidence also references the Conservation Area Appraisal (CAA) and the Conservation Area Management Plan (CAMP) in which these buildings are referenced along with the importance of the green, open spaces within the CA.
8. The Council's refusal reason on its decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the development plan which it would be in conflict with, whilst the guidance in the CAA and CAMP is referenced in the delegated report.
9. Whilst I found harm to the setting of the non-designated heritage asset of the cemetery, it will be seen from my decision that I do not agree with the Council's assessment of the effect on 1 Bakers Road. However, the decision was a matter of judgement based on the evidence before the Council, which took into account the development plan, the aforementioned guidance and material considerations. I am satisfied that the Council adequately substantiated their reason for refusal. In this case the appeal could not therefore have been avoided.

Conclusion

10. For the above reasons, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, an award of costs is not justified.

Paul Martinson

INSPECTOR