



Costs Decision

Site visit made on 25 November 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Costs application in relation to Appeal Ref: APP/E2001/W/24/3341871 Land West of The Birches, 8 Little End, Holme upon Spalding Moor, Yorkshire YO43 4DS

- 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 S Allison Ltd for a full award of costs against East Riding of Yorkshire Council.
 - The appeal was against the refusal of planning permission for change of use of land and building to business use comprising office and storage of equipment and materials and external storage for scaffolding and cement mixer.
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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. It is suggested that the Council acted unreasonably by failing to substantiate the reason for refusal which it is alleged is not clear or precise, incorrectly applied design policy and guidance and failed to take into account a nearby development. It is also indicated that regard was not had to the National Planning Policy Framework (the Framework).
4. Maladministration by the Council at the planning application stage is also alleged, including the format of the decision notice, the maintenance of the planning register and the availability of local planning policy documents. However, even if I were to consider that these matters amounted to unreasonable behaviour, they have not directly caused the applicant to incur unnecessary or wasted expense in the appeal process given that those matters relate to the planning application stage and the Council's administration of that.
5. The Council refused the application because in their view it was contrary to the provisions of the development plan and provided reasons for this, demonstrating on planning grounds and in sufficient detail why the proposal would be unacceptable. The reason for refusal contains several paragraphs, nevertheless it provides specific information to allow an understanding of the alleged harm and conflict with the development plan. The applicant may disagree with certain matters raised by the Council, however it has not been clearly shown that the Council approached the decision other than in a positive and creative way.

6. While the Council's case primarily focused on the effect of the proposed change of use on the landscape character, the visual effects of the proposal from the public right of way were also considered. A substantiated and reasonable assessment of the site's context was provided, even if specific reference was not made to the nearby visitor accommodation. In doing so the Council has demonstrated an analysis of the appeal site context, therefore, a reasonable exercise of planning judgement was demonstrated in the conclusions reached on the appeal scheme and the interpretation of local policy was not irrational.
7. Notwithstanding that the proposal relates to the change of use, 'design' can be defined as being about how places work and is more complex and multifaceted than built form. The Framework is clear that good design should go beyond aesthetic considerations and should take into account the way that an area functions and how the proposal would relate to those functions, as well as what a scheme may look like. As such it was not unreasonable for the Council to consider matters of design in their decision.
8. Even if specific reference was not made to Framework Paragraphs 88 and 89, the aims and objectives of these paragraphs are reflected in Policies S4 and EC1 of the East Riding Local Plan 2012 – 2029: Strategy Document (2016). As such the requirement to support a prosperous rural economy was taken into account. Irrespective of the form of wording used on the decision notice, I am content that the Council followed the approach set out in Framework Paragraph 11. The decision was made in accordance with the development plan, and it was the Council's view that there were no material considerations sufficient enough to outweigh the conflict that they had identified.

Conclusion

9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred. I therefore conclude an award of costs is not warranted.

F Harrison

INSPECTOR