



Costs Decision

Site visit made on 4 February 2025

by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th February 2025

Costs application in relation to Appeal Ref: APP/Y2003/W/24/3352581 Land west of Vicarage Lane, North Killingholme, DN40 3JL

- 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 Qudos Homes Limited for a full award of costs against North Lincolnshire Council.
 - The appeal was against the refusal of planning permission for six dwellings with access road, drive and landscaping.
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Decision

1. The application for an award of costs is allowed in part, in the terms set out below.

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 where this behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG establishes that unreasonable behaviour can include a failure to produce evidence to substantiate a reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are not supported by any objective analysis.
4. The planning application was refused by the Planning Committee on 31 July 2024, contrary to the officer recommendation for approval. Whilst it is a fundamental principle that members are not bound to follow the advice of officers, there is a reasonable expectation that where this occurs, the Council should show reasonable planning grounds for taking a different decision and should produce substantive and robust reasons to defend the decision.
5. In relation to the first reason for refusal concerning the location of the proposed development, the officer report concludes that 'the proposal would be acceptable as a departure from policies concerning the spatial distribution of new homes contained within the adopted development plan. In reaching this conclusion some limited weight is afforded to the proposed changes to the development boundary being brought forward through the emerging Local Plan, as well as the lack of any meaningful harm to the character and appearance of the area'.
6. The Council's statement of case for the appeal indicates that the decision was left open for the Planning Committee to make, having provided the policy context in the current Local Plan and the emerging Local Plan. Based on my reading of the officer

report, there is a clear recommendation that planning permission should be granted, subject to conditions.

7. Having taken a different decision, it was incumbent on Members to provide the reasons for doing that. The Committee minutes provide no further detail or explanation as to what weight, if any, Members attributed to the inclusion of the site within the North Killingholme development limit in the emerging Local Plan in coming to their decision, or the reasons for disagreeing with the officer's thorough assessment on that point. As that was a material consideration informing the recommendation to depart from the adopted development plan, it was incumbent on them to do so.
8. The emerging Local Plan was withdrawn from its examination on 4 October 2024, after the refusal of planning permission and following the submission of the appeal. The fact that I have given it no weight in my substantive decision does not affect my assessment of this application for costs. The Council acted unreasonably in not providing a detailed explanation of why Members departed from the officer recommendation, including in relation to the weight to be given to the emerging Local Plan which was being examined at the time that the decision on the planning application was made.
9. As a result, the appellant has been put to unnecessary expense in providing the evidence to respond to the first reason for refusal, without sufficient clarity of the reasons for disregarding the weight to be given to the emerging Local Plan and for refusing the application contrary to the officer recommendation.
10. The impact of the proposed development on the form and character of the village is a matter of planning judgement, and Members did not act unreasonably in coming to a different view from the officer recommendation on that issue.
11. The officer report sets out a clear and detailed assessment of the likely impact of the proposed new dwellings on the living conditions of adjoining neighbours at By-Ni and Homeword Cottage. Again, having reached a different view, it was incumbent on Members to provide an explanation of why, in their opinion, the impact would be harmful and to identify the properties whose occupiers would be affected. Again, the minutes do not elucidate on either of those points, and the reason for refusal provides no further clarification. The Council has acted unreasonably in providing a vague and generalised assertion in relation to the impact of the proposal on living conditions, which was not supported by any objective analysis.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North Lincolnshire Council shall pay to Qudos Homes Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to reasons for refusal one and three; such costs to be assessed in the Senior Courts Costs Office if not agreed.

13. The applicant is now invited to submit to North Lincolnshire Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Sarah Housden

INSPECTOR