



Costs Decision

Site visit made on 24 October 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

Costs application in relation to Appeal Ref: APP/Y2003/W/24/3343971

Land off Scotter Road, Messingham, Lincs DN17 3QE

- 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 Mr AE and DM Swaby for a full award of costs against North Lincolnshire Council.
 - The appeal was against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission to erect 6 No. 4 bedroom detached dwelling houses with integral garages.
-

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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. The Council's reason for refusal relates to concerns about the appellant's drainage strategy, which the Council considers fails to demonstrate whether the development would result in an acceptable method of surface water drainage disposal, whether infiltration would be feasible on the site, and subsequently whether the development would be safe from the risk of flooding or increase flood risk elsewhere. However, as can be seen from my Appeal Decision, I have concluded that these concerns do not fall within the scope of the Reserved Matters and can be addressed through the discharge of conditions on the outline planning permission.
4. The Council refers to evidence submitted by the appellant which states that existing watercourses are inadequate to accommodate the development, and therefore changes are required to ensure the development is acceptable and does not add to localised flooding issues. The Council also refers to specific concerns about the lack of infiltration testing. But it has not been substantiated why these concerns cannot be addressed through the discharge of the extant planning conditions.
5. The Council's Officer report recommended the approval of the Reserved Matters in the absence of any outstanding technical objection from consultees, including the Lead Local Flood Authority Drainage team. The report also stated that conditions on the outline planning permission related to the detailed design of the drainage scheme.

6. I acknowledge that planning committee members are not bound by the recommendations made to them by officers and consultees of the Council. However, the consideration of flood risk and drainage are primarily a technical matter, and any departure from the advice of officers or consultees should be robustly justified. Even allowing for the local knowledge of Members, there is no evidence that the committee was able to rebut the appellant's evidence on these issues, or demonstrate that their concerns could not be addressed as part of discharging the conditions on the outline planning permission.
7. Drawing the above together, the Council's decision is based on vague and generalised assertions about the proposal's impact which are unsupported by objective analysis. It has refused permission for the Reserved Matters on an issue which is capable of being dealt with by conditions considered at the outline stage.
8. I conclude that it was unreasonable of the Council to have refused to approve the Reserved Matters, with the result that the appellants have directly incurred unnecessary and wasted expense in submitting their appeal. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

9. 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 Mr AE and DM Swaby, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. 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.

David Cross

INSPECTOR