



Costs Decision

Site visit made on 28 February 2019

by D Guiver LLB (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10 April 2019

Costs application in relation to Appeal Ref: APP/N2535/W/18/3216551 Land Adjacent 25B Church Road, Stow, Lincoln LN1 2DE

- 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 Charlie Lister for a full award of costs against West Lindsey District Council.
 - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of a planning permission pursuant to condition No 2 of a planning permission Ref 134537, granted on 29 July 2016.
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Decision

1. The application for an award of costs refused.

Reasons

2. 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. Costs may be awarded to any party regardless of the outcome of the appeal. The PPG makes it clear that a local planning authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The applicant submits that the Council has acted unreasonably in that it failed to follow officer recommendations and thereby delayed development that clearly should have been permitted.

Reasons for Refusal

4. The application was for approval of reserved matters for the construction of two dwellings. In summary, the application was refused on the ground that the proposal would have an unacceptable impact on the character and appearance of the area.
5. The Council's evidence clearly referred to two elements in reaching its conclusion that the proposal would not be acceptable in terms of its effect on the character and appearance of the area. The first of these was the impact on the countryside by reason of the location of the appeal site outside the existing developed footprint of the village of Stow. The second element was the relationship of the proposed dwellings with the built-form of the village.

6. In seeking to refuse the application on the ground that development at the location of the appeal site would have a detrimental effect on the character of the countryside, the Council did not properly address the fact that outline permission had been granted and that development in principle was approved. While detailed proposals for reserved matters could be contrary to Policy notwithstanding an outline permission, it can be seen from my decision in the substantive appeal that the Council's evidence referred to development per se adversely affecting the defining characteristic of countryside views.
7. In this regard I was referred to my own earlier appeal decision for the neighbouring plot of land that dealt with the impact of a proposal on the open countryside. In refusing approval on this element, the Council behaved unreasonably in seeking to address matters that should have been raised at outline permission stage.
8. The second element of the ground of refusal was that the scale of the proposed dwellings would have an unacceptable impact on the character and appearance of the area. Scale was a specifically reserved matter and one upon which members were entitled to exercise their planning judgment and where they were not bound to follow the advice of their officers. From the substantive appeal it will be seen that I reached a different conclusion to the Council, but the proper exercise of planning judgment is not unreasonable behaviour.
9. Consequently, although the Council acted unreasonably regarding the character of the countryside, the appeal would have been required and the costs of appeal incurred in any event.

Conclusion

10. On the basis of the evidence before me, I conclude that it has not been demonstrated that the Council caused unnecessary or wasted expense in so far as an award of costs could be justified. I therefore determine that the costs application should fail and no award is made.

D Guiver

INSPECTOR