



Costs Decision

Site visit made on 13 February 2019

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 April 2019

Costs application in relation to Appeal Ref: APP/N2535/W/18/3210404 Land South of High Street, Cherry Willingham, Lincoln, LN3 4AH

- 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 Tennyson Homes Ltd for a full award of costs against West Lindsey District Council.
 - The appeal was against the refusal of planning permission for a residential development of 5 detached dwellings.
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Decision

1. The application for an award of costs is refused.

Reasons

2. 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 applicant states that the council behaved unreasonably by refusing the application contrary to the advice of its officers but then goes on to accept that the reason for refusal related to a subjective issue. Authorities are not bound to accept the recommendations of their officers, but if their professional or technical advice is not followed, then reasonable planning grounds for taking a contrary decision needs to be provided, and supported by relevant evidence.
4. The Committee after considering the Officer report, representations and objections, including those of the conservation officer, decided that the proposal would, amongst other things, be harmful to the character and appearance of the area and the setting of non-designated heritage assets and I found similarly.
5. The applicant states that the Council failed to substantiate its reasons for refusal by making no assessment of the significance of the heritage assets that would be affected by the appeal proposal. The National Planning Policy Framework is clear, at paragraph 189, that it is the applicant that should undertake this assessment, and not the Council. Whilst I acknowledge that a Heritage Statement was submitted with the application, this did not assess the significance or setting of the non-designated heritage assets adjacent to the site in any detail.
6. The decision notice was clear and well-reasoned and I am satisfied that the Council substantiated its reason for refusing the planning application. Despite the recommendation of approval, officers are obliged to defend the decision

reached by the Council and there is a high probability that the appeal statement submitted on behalf of the Local Planning Authority relates to the reasoning for the Council's decision as opposed to the officer's personal views. This approach is not an indication of unreasonable behaviour on the Council's part.

7. In light of the above I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Rachael Bartlett

INSPECTOR