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## Costs Decision

Hearing Held on 22 October 2019

Site visit made on 22 October 2019

**by Mr M Brooker DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 January 2020**

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### **Costs application in relation to Appeal Ref: APP/N2535/W/19/3231050 Holywell Grange, Moor Road, Snitterby, DN21 4UH**

- 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 Stewart Smith for a partial award of costs against West Lindsey District Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for the development described as "change the use of the land for the siting of 84 chalet lodge units, site manager's accommodation, multi functional space and a reception/managers office".
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### **Decision**

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

### **The submissions for Mr Stewart Smith**

2. The costs application was made orally. The applicant claims that the Council acted unreasonably in refusing planning permission on a planning ground capable of being dealt with by condition as matters of accessibility and sustainability could have been readily addressed by pre-commencement conditions as had been done in respect of another appeal decision<sup>1</sup>. The Council's failure to do so was unreasonable and led to the applicant incurring costs relating to those matters.

### **The response by West Lindsey District Council**

3. The Council's response was made orally at the hearing. The Council claims that the proposed conditions do not meet the six tests set out in the National Planning Framework and could not overcome the reasons for the refusal of the application. With regards the appeal decision identified by the applicant, the Council observes that this related to a different development plan of another Local Planning Authority Area.

### **Reasons**

4. The Planning Practice Guidance (the 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. Examples of unreasonable behaviour of the local planning authority

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<sup>1</sup> APP Y2003/A/13/2209104

include refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead.

5. However, in determining the appeal, while I found that details such as a travel plan and a sustainable tourism plan could be controlled by a condition, I do not find that such details would overcome the reason for refusal.
6. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and have regard to all other matters raised, an award for costs is not justified.

*Mark Brooker*

INSPECTOR