



Costs Decision

Site visit made on 24 June 2020

by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2020

Costs application in relation to Appeal Ref: APP/N2535/W/20/3247810 Land to north east of Red House, Main Street, Osgodby, Market Rasen LN8 3PA

- 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 Laurence Brown for a full award of costs against West Lindsey District Council.
 - The appeal was against the refusal of planning permission for 'outline application to erect 2 No. dwellings with all matters reserved'.
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Decision

1. The application for a full award of costs is 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.
3. The applicant's claim for an award of costs relates to substantive matters in the way that the Council assessed the planning application in relation to the policies in the Central Lincolnshire Local Plan (2017) (LP) and Osgodby Neighbourhood Plan (2018) (NP). It is argued that the Council has prevented development which should clearly have been permitted because it accorded with the development plan and that the appeal was unnecessary.
4. The applicant considers that the reference to the growth level for Osgodby set out in the LP in the first reason for refusal is inappropriate, because it has been 'superseded' by Policy 1 of the NP. LP Policy LP2 allows for NPs to vary the growth levels set out, which is what the NP has done and there is no 'conflict' between the two documents in that regard. However, the absence of a reference to the NP in the first reason for refusal is confusing and inconsistent with the second reason for refusal which does mention the NP. Nor is there anything in the Council's evidence which provides further clarity. I consider that this amounts to unreasonable behaviour by the Council.
5. I note that the applicant has gone to considerable lengths to clarify the monitoring of permissions for new dwellings in Osgodby in relation to the growth levels set out in the LP following the refusal of planning permission for a previous scheme for four dwellings on the appeal site.¹ However, that same

¹ Application Reference 139146

information is relevant to address the growth level set out in NP Policy 1 and whilst I acknowledge that it has been frustrating for the applicant, I do not consider that the applicant has been put to any unnecessary or additional expense as part of the appeal process to address the monitoring issue in relation to the NP.

6. Although the application was submitted in outline with all matters reserved for later approval, NP Policy 4 which deals with character and design is relevant to the assessment of the proposed development. It follows that I disagree with the applicant's point that NP Policy 4 would only be relevant to a reserved matters application and the Council has not acted unreasonably in including reference to NP Policy 4 within the second reason for refusal.
7. The applicant argues that specific National Planning Policy Framework (NPPF) paragraph numbers should have been referenced in the reasons for refusal rather than 'guidance in the NPPF'. However, there is no specific requirement to do so and that does not amount to unreasonable behaviour by the Council.
8. It is also argued that the Council has adopted an inconsistent approach to the determination of other applications for new dwellings in Osgodby, in particular in relation to the issue of whether the development would be sustainable. That is, however, a matter of planning judgement and I have addressed the issue in my decision on the appeal. The Council determined other applications based on a specific balance of considerations and I cannot be clear that they are identical to the appeal scheme before me. The Council has not acted unreasonably in this regard.
9. For the reasons outlined above, I conclude that whilst the Council has acted unreasonably in relation to the first reason for refusal, no unnecessary or wasted expense has been incurred by the appellant. A full award of costs is therefore not justified.

Sarah Housden

INSPECTOR