



Costs Decision

Hearing held on 15 December 2020

Site visit made on 16 December 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2021

**Costs application in relation to Appeal A: APP/N2535/W/20/3244904
33 West Bank, Saxilby, Lincoln LN1 2LU
and Appeal B: APP/N2535/W/20/3252319
Land between 27 and 33 West Bank, Saxilby, Lincoln LN1 2LU**

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Robert Sykes for a partial or full award of costs against West Lindsey District Council.
 - The appeal was against the refusal of planning permission for: (Appeal A) demolition of outbuilding, construction of one dwelling and associated garage/tack room/stable, construction of a new access to highway for approved replacement dwelling and formation of a footway; and (Appeal B) erection of two dwellings and associated garage/tack room/stables, new accesses to highway and formation of a footway.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application centres on the applicant's claim that the Council: (a) prevented development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; (b) did not determine similar cases in a consistent manner; and (c) made vague and generalised assertions about the proposals' impact which are not supported by objective analysis.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they prevent development which should clearly be permitted, do not determine similar cases in a consistent manner and make vague and generalised assertions about a proposal's impact.
5. Regarding matter (a) I see evidence in the Planning Officer's reports of the Council's rationale regarding the spatial strategy of the area. It will be clear from my appeal decisions that I have reached a different view from the Council regarding whether the proposals would be within the existing developed footprint of the village. Nevertheless, the Council was entitled to apply its planning judgement on this issue in the light of its assessment of the appeal

sites' setting and characteristics. The appeal findings relating to sites elsewhere in the district do not negate this because it is a site specific matter in this instance.

6. Various statutory consultees did not object to the proposal in respect of flood risk. However, this does not automatically mean that the proposal would be acceptable. The Council is not duty bound to follow consultees' advice and was entitled to reach a different view, given the sequential test requirement, which generally falls outside the remit of the Environment Agency.
7. In respect of flood risk, in relation to matters (a), (b) and (c), I find adequate evidence in the Planning Officer's Reports of the Council's rationale. This includes consideration of the sequential test search, application of local and national planning policy and comparison with some other sites with planning permission. Furthermore, as identified in my appeal decisions, various factors and differences limit the extent to which other cases cited by the applicant are analogous to the current appeal cases, in respect of the sequential test. In the light of the above, it is not decisively shown that the Council's decisions were inconsistent with clearly comparable sequential test rationale in other cases. Furthermore, the Council was entitled to apply its planning judgement on this issue in the light of its analysis.
8. Regarding housing land supply and matter (c), I see evidence in the Planning Officer's Reports of the Council's rationale. This includes reference to the Central Lincolnshire Five Year Land Supply Report. The Council was entitled to reach its planning judgement on this issue in the light of its assessment of the housing land supply.
9. To conclude, I find that in relation to matters (a), (b) and (c) unreasonable behaviour has not occurred.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for costs fails.

William Cooper

INSPECTOR