



Costs Decision

Site visit made on 25 April 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Costs application in relation to Appeal Ref: APP/N2535/W/22/3304070 Land adjacent to 5 Beck Hill, Tealby, Market Rasen, Lincolnshire LN8 3XS

- 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 Nik Ferrier-Hanslip for a full award of costs against West Lindsey District Council.
 - The appeal was against a refusal to grant planning permission 'to erect 1no. dwelling'.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include where a local planning authority fails to produce evidence to substantiate each reason for refusal on appeal or where vague, generalised or inaccurate assertions are made about a proposal's impact, which are unsupported by any objective analysis.
4. I acknowledge matters of design and layout can be subjective matters and that the Council's Planning Committee were not duty bound to accept the recommendation of its officers. I also accept that the Planning Committee members may have been familiar with the site history, the character and appearance of the area and the relevant development plan policies.
5. However, in refusing planning permission, this should have been substantiated through detailed reasoning with reference to the specific aspects of the scheme that the Council considered would be harmful. The reason for refusal on the Council's decision notice is very generalised and it is not clear from this what is meant by 'over-development of the site' or why the development would 'as a result of its scale, mass and positioning, be overbearing and would result in harm to the prevailing character and amenity of the surrounding area'.
6. The committee minutes suggest that there was a debate as to the merits of the proposal. However, that was just a discussion and the minutes do not on their own provide sufficient precision or clarity as to the precise harm. More particularly, there is variation to the design, scale and layout of dwellings in the

CA. The minutes do not provide a detailed analysis of the design or layout of the proposal or why it would be harmful in this context. Furthermore, the Council has not sought to elaborate or provide any detailed justification for its decision through the submission of an appeal statement. Therefore, the Council's decision has not been reasonably substantiated through the provision of any objective analysis.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that West Lindsey District Council shall pay to Mr Nik Ferrier-Hanslip, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to West Lindsey District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Russell

INSPECTOR