



Costs Decision

Site visit made on 23 April 2018

by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th June 2018

Costs application in relation to Appeal Ref: APP/N2535/W/17/3187822 Land off Brook Street, Hemswell, Gainsborough, Lincolnshire DN21 5UJ

- 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 West Lindsey District Council for a full award of costs against M & M Fieldson.
 - The appeal was against the refusal of planning permission for the erection of up to 25 dwellings.
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (PPG) states that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process. An appellant is at risk of costs, the PPG states, amongst other things when the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced there is inadequate supporting evidence.
3. The Council's case centres on their view that the proposal is contrary to Policy LP2 of the Central Lincolnshire Local Plan 2017 in so far as, amongst other things, the development is for a greater number than 4 dwellings. In addition, the appellant failed to provide full and detailed evidence to support their case in terms of all of the reasons for refusal, specifically, a lack of minerals assessment; health impact assessment; failure to secure 20% affordable housing; lack of SUDs scheme, lack of ecological and archaeological assessments and associated conflict with development plan policies.
4. In response, the appellant includes a copy of a note to the Council following a meeting, setting out their disagreement with the Council's position. Moreover, the appellant sets out, as a material consideration, the designation of Hemswell as a strategic employment area in the Central Lincolnshire Local Plan. The appellant's primary consideration is that the constraints of Policy LP2 are affected by the housing needs in LP4.
5. I have addressed these matters in my decision and, whilst I have not accepted the appellant's position, the appellant's views amount to a material consideration. As such, there is a clear disagreement between the parties which could only have been resolved by way of an appeal.

6. The appellant has, it seems to me, addressed all the reasons for refusal, albeit briefly and with limited supporting evidence. Consequently there has been no unreasonable behaviour. Moreover, given that the appeal was necessary to resolve the fundamental disagreement between the parties, the limited response on these matters has not engaged the Council in any unnecessary expense.
7. As such, unreasonable behaviour resulting in unnecessary or wasted expense in submitting the appeal, as set out in the PPG, has not been demonstrated. The application for costs is therefore refused.

S Ashworth

INSPECTOR