



The Planning Inspectorate

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Your Ref: PA/2021/1330

Our Ref: APP/Y2003/W/22/3297656

Clare Allcock
North Lincolnshire Council
Development Control
Planning Dept
P O Box 42, Church Square House
Scunthorpe
N Lincs
DN15 6XQ

14 June 2022

Dear Mrs Allcock,

Town and Country Planning Act 1990
Appeal by Jackson Philips Asset Solutions
Site Address: Agricultural Barn (Next to the Stables Restaurant), HIGH STREET/
SCOTTER ROAD, MESSINGHAM, NORTH LINCOLNSHIRE

For your information, I enclose further representations in connection with the application for costs.

Yours sincerely,

Sara Burke

Sara Burke

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Planning Inspectorate.
Temple Quay
Bristol

10th June 2022

Our Ref: PEJ/LA/1253

Dear Sirs.

PLANNING APPEAL- APPLICATION AWARD OF COSTS APP/2003/3297656

**Agricultural Barn (Next to Stable restaurant) High Street Scotter Road,
Messingham**

Rebuttal to Council response to the Appellants Award of Costs

The council's planning committee refused this application against the recommendations of its own planning officers who considered that the application conformed with all national and local planning policies. The council's planning department duly recommended that this application be approved.

The council's planning committee nonetheless refused this application for two reasons:

1. 'The applicant failed to demonstrate that a sufficient level of amenity exists for future residents' and:
2. 'There is potential that local businesses may have unreasonable restrictions placed on them as a result of the proposed development'.

The council's planning committee based its decision for refusal on policies DS1 and DS11 of the North Lincolnshire Local Plan and saved policies, policy CS5 of the Core Strategy and paragraph 187 of the National Planning Policy Framework (NPPF).

The Appellant in submitting its award of costs considered that on both counts the planning committee's reasons for refusal were unreasonably vague, entirely unevicenced and were not justified or substantiated by its specific references to the NPPF or local plan policies.

The Appellant provided detailed evidence to demonstrate how the council's reasons for refusal did not identify what it meant by "a sufficient level of amenity", and how this related to the cited NPPF and local plan policies or, why it considered the application failed to do so when its planning officers considered that it did.

In responding to the Appellants claim for costs the council has failed to respond to any of these matters. The planning committee have not identified what businesses it considers "may have unreasonable restrictions placed upon them", failed to explain what the "unreasonable restrictions" were or, how the proposed application would create and give rise to these unstated and undefined restrictions. The council's planning committee have demonstrated a catastrophic failure to justify its reasons for refusal, or to address the reasons why the appellant seeks a full award of costs.

The council have simply failed to address any of these issues. The Appellant will therefore undertake a full and complete assessment to take account of all these potential unexplained and unevidenced "amenity" issues and a comprehensive and robust defence in consideration of all potential "unreasonable restrictions" that could potentially affect each and every business in the locality in its final rebuttal statement to the council. The Appellant will seek the award of full costs for this appeal given the councils unreasonable behaviour and failure to provide any evidence to justify its reasons for refusal of the application or in its response to the award of costs.

Paragraph 030 of 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.

Paragraph 049 of the PPG makes it clear that a local planning authority is at risk of an award of costs if it **fails to produce evidence to substantiate each reason for refusal on appeal; provides vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; or prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.**

The Appellant contends that both reasons for refusal are vague and generalised and are inaccurate in their assertions about the proposals impact. The planning committee's reasons for refusal are unsupported by any objective evidence and are entirely unsubstantiated by any objective analysis and are not in accordance with national planning policy or the local development plan.

The Council is not duty bound to follow advice of its professional officers however, if a different decision is reached then the Council **has to clearly demonstrate on planning grounds, why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.** In this case, the applicant had provided substantial evidence to show that the council's planning committee has neither followed its own protocol for attending site visits or in providing any evidence whatsoever to justify its two reasons for refusal.

The council delayed its decision to determine this application subject to a site visit. The purpose of the site visit was to consider flood and drainage issues and because the application site was located close to a "busy junction" albeit a junction that has no history it any traffic accidents. The council did not base its decision on either highways or drainage / flood grounds and the Appellant contends that there was no beneficial purpose for the visit. The council's protocol for site visits states in their own published "good practice guide for members and officers 'dealing with planning applications and related matters for site visits"- "Site visits are expensive and time-consuming and delay the determination of the application. They should be viewed as an exception to the usual process which can be justified only by the **importance or complexity of the application**. A site visit is only likely to be necessary if: the impact of the proposed development is **difficult to visualise** from the plans and any supporting material, including photographs taken by officers. The comments of the applicant and objectors **cannot be expressed adequately in writing,** or the proposal is particularly contentious".

The Appellant contends that there was no beneficial purpose for the site visit and that neither the highways authority nor the councils local flood lead officer or the water authority had raised any issues relating to drainage or highways. Furthermore, the council cited neither issue in its reason for refusal, and the purpose of the site visit only served to delay the decision.

The Appellant therefore seeks the full award of costs that will be submitted on completion of the final appeal statement.

This appeal for cost statement is submitted by

Philip Jackson On Behalf of: -

Jackson Philips Asset Solutions
Mercury House,
Foxby Lane Business Park,
Willoughton Drive,
Gainsborough,
Lincolnshire,
DN21.

