

APPEAL BY MR T STRAWSON

**AGAINST THE REFUSAL OF A PLANNING APPLICATION SEEKING: PLANNING
PERMISSION TO ERECT SIX DWELLINGS**

AT

LAND WEST OF VICARAGE LANE, NORTH KILLINGHOLME, DN40 3JL

**North Lincolnshire Council's response to application for costs from the appellant's
agent dated 05/11/2024**

Local Planning Authority's Reference: PA/2023/1651

Planning Inspectorate's reference: APP/Y2003/W/24/3352581

1.0 INTRODUCTION

The appellant has applied for the award of full cost against North Lincolnshire Local Planning Authority Council in relation to the appeal against the decision to refuse planning permission to erect six dwellings.

The application was refused at the planning committee meeting on 31 July 2024 with the decision dated 12 August 2024 on the following grounds:

1.

The proposals are unacceptable in principle due to their location outside of any defined development limits and do not accord with policies CS2, CS3, CS7 and CS8 of the North Lincolnshire Core Strategy, policies RD2, H5 and LC11 of the North Lincolnshire Local Plan, and policies contained within the National Planning Policy Framework.

2.

The proposals would harm the character and appearance of the area, and the scheme would present a cramped form of development which is out of keeping with the street scene. The proposals are therefore contrary to policy CS5 of the North Lincolnshire Core Strategy, policies RD2, DS1 and H5 of the North Lincolnshire Local Plan, and policies contained within the National Planning Policy Framework.

3.

The proposals would harm the residential amenity of occupiers of the neighbouring dwellings due to loss of light and overshadowing, contrary to policies H5 and DS1 of the North Lincolnshire Local Plan and policies contained within the National Planning Policy Framework.

Policy Context

The Planning Practice Guidance

The Practice Guidance (PPG) states that costs may be awarded where unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The costs regime aims to:

- encourage all those involved in the appeal process to behave reasonably and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case.
- encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to the costs of the development through avoidable delay.
- discourage unnecessary appeals by encouraging all parties to consider a revised planning application that meets reasonable local objections.

The Planning Practice Guidance (PPG) identifies that unreasonable behaviour in the context of an application for an award of cost may be either:

- procedural – relating to the process; or
- substantive – relating to the issues arising from the merits of the appeal.

Claimant's Case

The claimant's case is based on the following grounds:

- Failure to produce evidence to substantiate each reason for refusal on appeal.
- And, Vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

North Lincolnshire Local Planning Authority's Case

In respect of claimant's first case, it is worth noting that the council's emerging local plan has been formally withdrawn on 04/10/2024. Consequently, the LPA respectfully requests the inspector to accord no weight to the policies contained within the emerging local plan, going forward.

At the time of assessment and decision making, the emerging local plan was due to undergo examination (advanced stage) accordingly the policies contained in it were accorded limited weight. In the committee report, members' attention was called to the fact that the proposal conflicts with the development plan being outside the defined development limit but could be acceptable in principle, if the emerging local plan passes examination. Members therefore were advised to make a judgement having presented the state of the application site under the current local plan and the emerging local plan. Currently, the emerging local plan has been withdrawn hence it can no longer be regarded as a material consideration.

The National Planning Policy Framework sets out that decision-takers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and their degree of consistency with policies in the NPPF. At the time of decision making, the LPA anticipated that the emerging local plan would be taken for examination later in the year until it was formally withdrawn.

The impact of the proposal on character and appearance was partly assessed on the premise that the application site would eventually sit within the development limit and could represent an infill development provided the emerging local plan is adopted. Under the current local plan, the open space provides view into the paddock which forms part of the rural scenery of the village. As it stands, the emerging local plan no longer hold any weight in this case due to the unplanned withdrawal. Consequently, the inspector is respectfully requested to give this some consideration.

The planning committee members are aware of the 'Good Practice Guide for Councillors and Officers' which provides that planning committee members can reject the officer's recommendation should they feel there is a good reason to do so. Planning officers exist to advise planning committees, which are entitled to reach their own decisions by attaching a different weight to the various planning criteria which are relevant to an application. The correct procedure was followed at the committee meeting where the planning application was considered, and the committee members decided to refuse planning permission in accordance with the council's policies and procedures. Although a decision was made against officer's recommendation, the council's position is that it did not act unreasonably, and the decision made by the members was made in line with procedure and good practice guidance.

Conclusion

Planning committee members can reject the officer's recommendation should they feel there is a good reason to do so. Planning committee members are entitled to reach their own decisions by attaching a different weight to the various planning criteria which are relevant to an application. In this case the planning committee felt the proposal was a departure from the development plan and so would impact on the character and appearance of the area. After planning committee Members applied the planning balance to the proposed development, it was decided to refuse the application under policies CS2, CS3, CS7 and CS8 of the CS, Policies RD2, H5 and

LC11 of the NLLP and the NPPF. The council contests that the planning committee provided substantial reasons for refusal and did not give vague assertions regarding the proposal's impact. The council respectfully requests that the application for a full award of costs against the council is dismissed.