
Costs Decision

Site visit made on 13 December 2016

by Andrew McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 February 2017

Costs application in relation to Appeal Ref: APP/P2935/W/16/3158223 Land south of Rock Cricket Club, Rock, Alnwick NE66 3SE

- 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 Homes Rock Ltd for a full or partial award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for change of use to residential (C3 use) be erecting 5 no. dwellinghouses plus new access.
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Decision

1. The application for a full or partial award of costs is refused.

Reasons

2. Paragraph 30 of the National Planning Policy Guidance (the Guidance) 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 or wasted expense in the appeal process.
 3. Paragraph 49 of the Guidance sets out examples of unreasonable behaviour by local planning authorities. These include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material consideration.
 4. The appellant stated that the Council acted unreasonably by its Members going against a detailed assessment of the scheme and a recommendation to approve the proposal, as set out in the Officer Report, and thereby delaying the granting of planning permission. The appellant argued that the application should have been permitted having regard to the development plan and wider material considerations. Furthermore, the appellant stated that in refusing the application, and not providing any robust planning grounds justifying the decision, the Council delayed a development which should have been permitted resulting in additional and unjustified expense to the appellant.
 5. The Council argued that whilst the application was recommended for approval under delegated powers, it was called in by a Council Member to be determined by the Planning Committee. As a result, and in accordance with the Council's Scheme of Delegation, the application was determined by the Committee. I note that the planning officer sought an extension of time to cover the period to the next available Committee meeting which was granted by the appellant. The Council stated that it did not act unreasonably as the application was considered promptly at the next available Committee meeting with a recommendation for approval. Furthermore, the Council argued that its elected Members were entitled to disagree
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with the advice and recommendations of Council Officers. In this case, Members felt that there were clear and material planning reasons to refuse the application relating to the impact on the conservation area and sustainability matters. As such, the Committee went against the Officer's recommendation to approve, as they were entitled to do.

6. From the evidence before me, I have found that the Council has not acted unreasonably or failed to provide a clear and precise statement of its full reasons for refusal against policy. Nor has it unduly prevented or delayed a development which should clearly be permitted. Whilst I have disagreed with the Council's assessment and allowed the appeal, the elected Members had reasonable and justifiable concerns regarding the proposed development within the context of its adopted LDF policies and the Framework. In my view, the elected Members assessed the proposal in accordance with the Framework and on the basis of the evidence available to them and made a reasoned and justifiable judgement. Furthermore, I have found that the reasons for refusal were clearly set out in the Decision Notice.
7. I note the appellant's application for a full or partial award of costs against the Council. However, in assessing this application, I have found that no award of costs, either full or partial, is justified in this case.
8. Therefore, having considered the evidence before me, I conclude that unreasonable behaviour by the Council, as described in the Guidance in terms of causing unnecessary delay or wasted expense, has not been demonstrated. Consequently, the application for a full or partial award of costs is refused.

Andrew McCormack

INSPECTOR