
Costs Decision

Site visit made on 25 April 2017

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 18 May 2017

Costs application in relation to Appeal Ref: APP/Z0923/W/17/3167373 Westlakes Hotel, Gosforth CA20 1HP

- 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 & Mrs G Armstrong for a full award of costs against Copeland Borough Council.
 - The appeal was against the refusal of planning permission for the use of land for the erection of five dwellings.
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Decision

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

Reasons

2. Paragraph 030 of the Government's Planning Policy Guidance (PPG)¹ advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG² advises 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. Examples of unreasonable behaviour 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 considerations.
 - failure to produce evidence to substantiate each reason for refusal on appeal.
 - vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
 - not determining similar cases in a consistent manner.
 - refusing to enter into pre-application discussions or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.

¹ Reference ID: 16-030-20140306

² Reference ID: 16-049-20140306

4. In accordance with paragraph 49 of the National Planning Policy Framework (the Framework), the Council's five year land supply position is fundamental to whether the housing supply policies in its local plan should be considered up to date. It states that relevant policies for the supply of housing should not be considered up to date if a five year supply of deliverable housing sites cannot be demonstrated. In such circumstances, paragraph 14 of the Framework then requires development proposals to be considered in the context of the presumption in favour of sustainable development, unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate development should be restricted.
5. The appellant argued that the Council could not demonstrate a five year supply of deliverable housing land. The Council, whilst stating that it is taking steps to address this issue, did not specifically rebut this challenge by providing evidence to the contrary. The Council failed to explicitly recognise the significance of this shortcoming within the planning officer's report. Being unable to conclude that it has a five year deliverable supply of housing land, it would have been reasonable to expect the Council, in accordance with paragraph 14 of the Framework, to consider the proposal in the context of the presumption in favour of sustainable development.
6. The Council ultimately found that the development would result in harm to the countryside, setting out that it would amount to prominent hard development on what it regarded as an isolated greenfield site, poorly related to the village of Gosforth, with the A595 acting as a physical barrier between the two. The Framework identifies the importance of recognising the intrinsic character and beauty of the countryside as a core planning principle. It goes on to state that new isolated homes in the countryside should be avoided unless certain special circumstances can be met. The Council was able to explain, based on the professional opinion of its officers, that the proposal would conflict with these principles.
7. Therefore though I did not agree with its findings, I consider that the Council was able to substantiate its refusal reason based on objective analysis. Furthermore, although the Council did not appear to evaluate the proposal in terms of its contribution to the provision of executive housing, it would still have been possible, had it explicitly undertaken the paragraph 14 balance, to arrive at the conclusion that because of countryside harm and the nature of the site's relationship with the village, that the proposal did not amount to the sustainable development for which there is a presumption in favour. In this context although the appellants are aggrieved that, in their view, housing land supply data was not provided by the Council in a timely manner, I am not persuaded that, had this data been supplied any earlier, it would probably have resulted in the appeal being avoided.
8. With regard to the recent outline planning permission granted for nine dwellings at the Rheda Park site in the north-east Copeland area, the Council has provided evidence to demonstrate that that site lies within a less affluent area compared to the appeal site. Notwithstanding recognition in the Copeland Local Plan 2013 of a need for more executive housing in the Borough, the north-east Copeland locality is specifically identified as suitable for high end market housing. It does not therefore follow that the grant of planning permission at Rheda Park, despite that site also being outside a recognised

settlement boundary, meant that the refusal of planning permission on the appeal site was an inconsistent decision.

9. Therefore although it was unreasonable not to have explicitly gone through the paragraph 14 process, for the above reasons a compelling case has not been made that the development should clearly have been permitted.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Roy Merrett

INSPECTOR