
Costs Decision

Hearing held on 13 June 2017

Site visit made on 13 June 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 6th July 2017

**Costs application in relation to Appeal Ref: APP/P2935/W/17/3169553
Smaldene View, Harrogate Lane, Longframlington NE65 8EE
(Grid Ref Easting: 413922, Grid Ref Northing: 602059)**

- 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 Grant Shields for a full award of costs against Northumberland County Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for a farm workers dwelling, detached garage/workshop and solar panels.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions

2. The applicant's case was made in writing, as were the Council's response and the applicant's final comments.

Reasons

3. 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 49 of the PPG states 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.
4. The Council's delegated report makes reference to recent case law¹ in which the judge held that the guidance in paragraph 55 of the Framework is significantly less onerous than that in the now cancelled Planning Policy Statement 7 and does not require that the proposal is economically viable but 'simply requires a judgment of whether the proposed agricultural enterprise has an essential need for a worker to be there or near there'. However, notwithstanding this, and despite the Council's agreement that there is an essential need for a rural worker to live permanently on the site, the delegated report goes on to state that the potential build and maintenance costs alongside ancillary development is in excess of what would be affordable. In reaching this conclusion, the Council failed to follow well-established case law which related to a case in its own authority.

¹ The Queen on the application of Embleton Parish Council, David Ainsley v Northumberland County Council v Ivor Gaston [2013] EWHC 3631 (Admin).

5. The scale of the proposed dwelling was reduced prior to the determination of the application, in line with recommendations set out in correspondence from the Council's planning officer. Nevertheless, the Council's delegated report concludes that 'the proposed dwelling and ancillary development is in excess of what is qualified as essential need', and the reason for refusal set out in the decision notice states that the application proposes development that is over and above the essential need of the business. This conclusion was reached despite the reduction in the size of the proposal and acknowledgement in the Council's delegated report that paragraphs 28 and 55 of the Framework make no specific reference to scale.
6. The Council's reason for refusal was based upon a vague assertion about the proposal's impact. The Council failed to produce evidence to substantiate the reason for refusal on appeal, or identify any harm likely to arise from the proposed development. No conflict with policy has been identified. Consequently, I find that this behaviour prevented development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
7. I therefore find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense as described in the PPG has been demonstrated, and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Northumberland County Council shall pay to Mr Grant Shields the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Northumberland County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

CL Humphrey

INSPECTOR