



Costs Decision

Site visit made on 7 June 2018

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 28 June 2018

Costs application in relation to Appeal Ref: APP/H0928/W/18/3197315 Croft House, Bradley on the C3009, Ousby, Penrith CA10 1QB

- 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 John Hunter for a full award of costs against Eden District Council.
 - The appeal was against the refusal of planning permission for demolition of existing lean-to agricultural shed and erection of a single dwellinghouse.
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Decision

1. The application for the award of costs is refused.

Reasons

2. Paragraph 30 of the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. 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, and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant submits that the Council have failed to properly assess the application, and failed to have due regard to paragraph 14 of the National Planning Policy Framework (NPPF). The Council cannot demonstrate a five year housing land supply, in which case, paragraph 49 of the NPPF states that the relevant housing policies should be considered out of date. Where such policies are out of date, NPPF paragraph 14 provides that planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole.
5. Whilst the tilted balance has been engaged in this case, the requirement for sustainable development remains an overarching aim of the NPPF. In support of their position, the Council have submitted a statement of case which supplements the planning officer's report. It seems to me that they have provided a clear and detailed analysis of the impact of the proposal. The appellant, conversely, has had the opportunity, through the appeal process, to set out their arguments as to why they disagree with the Council's findings.

6. The parties have reached different conclusions on the merits of the case, but it is not possible to infer from this that the Council have not made an objective assessment of the relevant considerations. I therefore find that the Council have not acted unreasonably.
7. I have been referred to the costs decision which accompanied the appeal decision¹ for land opposite Ivy House, Ousby, and I note the appellant's contention that the same principles apply as to the appeal scheme before me. However, as may be seen from my decision, I have concluded that there are sufficient differences between the cases to indicate that they do not provide a direct parallel to each other. In any event, it is a well-established principle that each case is to be determined on its own merits.

Conclusion

8. I therefore find that unreasonable behaviour by the Council leading to unnecessary and wasted expense, as described by the Planning Practice Guidance, has not been demonstrated. As a result, no award is made.

Elaine Gray

INSPECTOR

¹ APP/H0928/W/17/3183181