
Costs Decision

Site visit made on 28 January 2019

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2019

Costs application in relation to Appeal Ref: APP/H0928/W/18/3211150 Land at Townhead, Lamonby, Penrith

- 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 Robert Brown for a full award of costs against Eden District Council.
 - The appeal was against the refusal of outline planning permission for a new dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. The PPG sets out the type of behaviour that may give rise to a substantive award against a local planning authority (LPA) and includes situations where an LPA has prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The appellant considers the Council based its reason for refusal on policies which were out of date and that there was therefore a requirement for the application to be determined in accordance with national policy and the presumption in favour of sustainable development. They assert that this did not happen and that this was compounded by the Council's alleged inability to demonstrate a deliverable supply of housing land.
5. The Council's reasons for refusal cited policies within the emerging Eden District Council Local Development Plan 2014-2032 (LDP). The National Planning Policy Framework states at Paragraph 48 that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan and that the more advanced its preparation, the greater weight that may be given. The LDP was at an advanced stage in the Local Plan process and was formally adopted shortly after the decision on the planning application. I therefore find that the Council was entitled to attach significant weight to these policies. The Council did not therefore base its decision on policies that were out of date, rather on policies that were to be adopted imminently. It does not therefore follow that the

Council should have moved to consider the proposal solely against the Framework.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

M Russell

INSPECTOR