



Costs Decision

Site visit made on 22 January 2019

by Sarah Manchester BSc (Hons) MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 18th April 2019

Costs application in relation to Appeal Ref: APP/H0928/W/18/3214337 Old Pond Cottage, Little Musgrave, Kirkby Stephen CA17 4PQ

- 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 N & L Emson for a full award of costs against Eden District Council.
 - The appeal was against the refusal of outline planning permission for two local occupancy dwellings each no more than 150m² gross internal floorspace.
-

Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers that the Council acted unreasonably by i) failing to substantiate the reasons for refusal on appeal, ii) vague, generalised or inaccurate assertions that are not supported by objective analysis, iii) acting contrary to well-established case law, and iv) not determining similar cases consistently.
4. The officer's report provided an analysis of the proposal and its context and assessed the scheme against the development plan. The report included a description of the settlement and the surrounding landscape. The analysis appeared to be appropriate and proportionate to the scale of the proposed development. The report set out clearly which aspects of the proposals it did not find acceptable and where it considered there was a conflict with the development plan.
5. At the time of determination, the emerging Local Plan was at an advanced stage but had not been formally adopted, such that policies of both the extant and emerging local plan were relevant to decision making. The Eden Local Plan 2014–2032 has now been formally adopted and is acknowledged to be the development plan for the purposes of the appeal. Although the Council's appeal statement continues to refer to policies in both development plans, it is clear that the proposed development is in conflict with policies in the adopted Local Plan.

6. It will be seen from the appeal decision that the approval of a scheme at Reagill was taken in a different policy context. Furthermore, Members are entitled to take a different view to their officers, provided that they give planning reasons for doing so.
7. The appeal has provided the appellant with the opportunity to test the Council's decision. As can be seen from my appeal decision, I concurred with the Council's assessment and have dismissed the appeal. The appellants have therefore not incurred unnecessary or wasted expense in presenting their case.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and the application for costs is refused.

Sarah Manchester

INSPECTOR