
Costs Decision

Hearing Held on 16 July 2019

Site visits made on 15 July 2019 and 16 July 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Costs application in relation to Appeal Ref: APP/P2935/W/18/3211899 Land west of Station Road, Embleton, Alnwick, Northumberland

- 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 Robertson for a partial award of costs against Northumberland County Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the construction of 7 dwellings.
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Decision

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

The submissions for Mr & Mrs Robertson

2. The appellant employed qualified landscape architects to prepare a Landscape and Visual Appraisal (LVA) as part of the application, and an LVA addendum as part of the appeal. The local planning authority (LPA) did not employ a qualified landscape architect to comment on the proposal or critique the LVA. The LPA's reasons for refusal make broad brush assertions regarding the proposal's landscape and visual impact without any meaningful substantiation, and conclude contrary to the findings of the appellant's LVA without any evidential support. The LPA has not provided substantive evidence to support its reasons for refusal or its stance of contesting the professional opinion and conclusions of the LVA and addendum.

The response by Northumberland County Council

3. The LPA assessed the application against relevant national and local planning policies, using its own landscape evidence, including the Northumberland Landscape Character Assessment (the NLCA) and the Alnwick Landscape Character Assessment Supplementary Planning Document (the SPD), and the planning judgement of the case officer in preparing a report to enable members to make a decision. That decision was robust, the evidence used to determine the application was appropriate, and it was not necessary to employ separate landscape advice to support the appeal.

Reasons

4. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.

5. The PPG advises that LPAs are at risk of an award of costs for vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, and for failure to produce evidence to substantiate each reason for refusal on appeal.
6. The Council may not have sought the advice of a landscape architect with regard to the specific effects of the proposed development. However, it was not obliged to do so, and it is evident from the Council's submissions that it considered the application having regard to existing landscape character appraisals (the NLCA and SPD) and to the specific characteristics of the site's landscape character area as defined therein. I have no compelling evidence before me to suggest that those comprehensive and detailed appraisals do not provide a reasonable or accurate assessment of the landscape character, or that the Council was unreasonable to rely on them in defining the area's character.
7. The Council's submissions do not make explicit reference to the appellant's LVA or the subsequent addendum. However, in those submissions, and in its evidence at the hearing, the Council identified what it considered to be the site's open character and its relationship to the village and the wider landscape, with reference to particular characteristics of the site and the identification of Station Road as a boundary demarcating the site from the village.
8. The Council also acknowledged that the site would not be prominent from the east, south and west, echoing some of the findings of the LVA and addendum. However, the Council set out how it considered the development would affect the character of the village and the surrounding landscape with reference to views of the site and its surrounding context from identified public vantage points from Station Road and the footpaths to the north. It was also clear from the Council's submissions and evidence at the hearing that, whilst it had regard to mitigation measures suggested by the appellant, including in the LVA and addendum, in its planning judgement it did not consider those to outweigh the harm it had identified.
9. It will be seen from my decision that, on the basis of the evidence before me and my own observations, I agree with the Council, that there were grounds for refusing planning permission on the basis of the harm to character and appearance. I am satisfied that the Council provided sufficient evidence to substantiate its reasons for refusal, with reference to the particular characteristics of the site and the wider landscape. Accordingly, it follows that I do not agree that the Council has acted unreasonably in this case.

Conclusion

10. For the reasons given, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Jillian Rann
INSPECTOR