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## Costs Decision

Site visit made on 13 August 2019

**by F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 8 October 2019**

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**Costs application in relation to Appeal Ref: APP/P2935/W/19/3227953  
Woodhouse Farm, U7007, High Ridley Link Road, Coanwood,  
Northumberland NE49 0NX**

- 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 J and S Wigham for a full award of costs against Northumberland County Council.
  - The appeal was against the refusal of planning permission for the construction of two semi-detached one and a half storey houses.
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### Decision

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

### Reasons

2. Irrespective of the outcome of an appeal, Paragraph 030 of the National Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantive matters (i.e. issues related to the planning merits of the appeal).
4. Paragraph 047 of the PPG provides a list of examples of behaviour by local planning authorities (LPAs) that may be deemed to be unreasonable in respect of procedural matters; the list includes examples such as: lack of cooperation with the other party or parties, delay in providing information, only supplying information at appeal when it was previously requested, and not provided, at application stage.
5. Paragraph 049 of the PPG provides a list of examples of behaviour by LPAs that may be deemed to be unreasonable in respect of the substance of the matter under appeal, by unreasonably refusing planning permission. The examples provided include: vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by objective analysis.
6. The appellants contend that the Council did not appropriately consider the information submitted in support of the application or the fact it was an outline application; did not determine the application in the correct manner; and relied upon out of date information in determining the application. The appellants have not expanded on these points in the application for costs but they are

- referred to in the appellants' full grounds of appeal. The Council contends that it assessed the application having regard to national and local planning policies and clearly set out the reasons for refusal.
7. The appellants highlight that the Council did not take the support of Coanwood Parish Council into account in the assessment and determination of the application. Furthermore, that given the support of the Parish Council, the application should have been referred to Committee and not determined under delegated powers, but because the Council does not have a formal Scheme of Delegation this did not happen. In these respects, the appellants state that the Council did not determine the application in the correct procedural manner which is not in line with principles set out in the National Planning Policy Framework (the Framework).
  8. The Council states that the Parish Council's comments were received after the application had been determined and, therefore, could not be taken into account in the assessment and determination of the application. I note from the evidence submitted that the Council did not appear to have a formal Scheme of Delegation in September 2017 and the Council has not confirmed if this situation has changed. I acknowledge the dissatisfaction of the appellants on this point. However, the information submitted with the appeal confirms that the Parish Council's comments were received on the date of the decision. Moreover, it is not within the remit of the appeals process to comment on the Council's internal procedures. In these respects, I do not consider that the Council behaved unreasonably in the way it processed and determined the application.
  9. The appellants state that the Council did not consider the fact that the information submitted was for an outline application with all matters reserved apart from access. This is with particular reference to the Council's comments and one of the reasons for refusal regarding the layout as shown on an indicative block plan, which illustrated that the private amenity space would not meet one of the requirements of Policy H32 of the Local Plan.
  10. As stated in the Appeal Decision, the Council needs to be assured that the proposed development would be capable of being advanced at the reserved matters stage. As the plan submitted did not meet the specified requirements in the Local Plan, it was not an inaccurate assertion of the potential impact of the proposed development and, therefore, I consider that it was valid for the Council to have some concerns about this issue. Although I concluded in the Appeal Decision that it was difficult to substantiate the Council's position on this point as a reason for refusal, I consider that this does not constitute unreasonable behaviour.
  11. The appellants also consider that the Council relied upon out of date information in determining the application. Whilst I accept that the use of an out of date Google Earth image is not good practice, I noted on my site visit that the proposed development may have an impact on a mature tree which appears to be adjacent to the site boundary. Given this, and the high landscape value of the area, I consider that it was appropriate for the Council to have concerns about the effect of the proposed development on the tree and any ecology on the site. Although, I do note that the appellants state that no additional information was requested by the Council and the Council has not disputed this.

12. It would have been more in the spirit of Paragraph 38 of the Framework if the Council had approached the determination of the application in a more positive way, and raised any concerns about the proposed development or highlighted the need for more information with the appellants during its determination. This lack of co-operation could be said to constitute unreasonable behaviour. However, as no additional information has been prepared and submitted at the appeal stage, there has been no unnecessary or wasted expense incurred in the appeal process. Furthermore, as the principle of the proposed development was considered to be unacceptable, provision of this information would not have changed the outcome or avoided an appeal.

### **Conclusion**

13. Taking all of the above into account, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated. Therefore, the application for an award of costs is refused.

*F Cullen*

INSPECTOR