



Costs Decision

Hearing Held on 8 October 2019

Site visit made on 8 October 2019

by E Symmons BSc (Hons), MSc

an Inspector appointed by the Secretary of State

Decision date: 05 November 2019

Costs application in relation to Appeal Ref: APP/P2935/W/19/3232803 West Thorn Farm, West Thorn, Kirkley NE20 0AG

- 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 M F Hall (Mr R Alder) for a full award of costs against Northumberland County Council.
 - The hearing was in connection with an appeal against refusal of planning permission for 1 no. agricultural workers dwelling and associated parking, access and amenity space.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, the Planning Practice Guidance¹ (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant submits that the Council acted unreasonably in determination of the planning application which prevented or delayed development which should have been permitted despite according with policy and failing to produce evidence to substantiate each reason for refusal. This is considered to be demonstrated specifically by three points which I shall discuss in turn.

The first reason for refusal conflicts with the Statement of Common Ground which considers there to be an essential need for an agricultural worker

4. The reason for refusal states "...it is considered that an essential need has not been demonstrated for the proposed development...". This statement refers to the development which in this case, is an agricultural worker's dwelling. It does not say that the development cannot be justified due to the absence of an essential need for a worker on the farm. The Council's approach is further substantiated within their Statement of Case. At paragraphs 3.15 and 3.16, it states that the Council consider that although there is an essential need for a worker, there is no essential need for an additional dwelling due to the presence of an existing dwelling on the farm. Additionally, the Statement of Common Grounds, point 7(a), specifically refers to availability of other accommodation as a matter of disagreement. I do not consider the Council has contradicted the reason for refusal and therefore has not acted unreasonably.

¹ PPG "Appeals", paragraph 028, reference ID: 16-028-20140306; revision date: 06 03 2014.

In the Statement of Common Ground the Council acknowledge that the cottage is occupied and this conflicts with the first reason for refusal

5. The reason for refusal acknowledges that the cottage is currently occupied, and the full details of this occupation are agreed within the Statement of Common Ground. The Council's position throughout determination of the appeal has been that there is no evidence to support the view that the existing cottage is unavailable. The Council also considered that they did not have sufficient evidence to support the view that other options for alternative accommodation had been fully investigated. They considered, in their planning judgement, that until such time as evidence became available, the construction of a home in the countryside could not be justified. This opinion is based upon the Council's interpretation of their policy. This is a matter of planning judgement and I do not consider the Council has contradicted the reason for refusal and therefore has not acted unreasonably.

The Council state that if the first reason for refusal is satisfied, the second reason, pertaining to Green Belt policy would fall away. This is considered contradictory.

6. As the appeal site is within the Green Belt and substantial weight must be afforded to its protection, the proposals must be considered against Green Belt policy. As has been detailed within the accompanying appeal decision, the proposal would constitute inappropriate development and harm the openness of the Green Belt and this is afforded substantial weight within any decision. Should other considerations constitute very special circumstances, this could justify the development.
7. The Council have accepted that if their objections as set out in the first reason for refusal were overcome, this would constitute very special circumstances. As the Council, in their planning opinion, considered that there was reason for refusal of the application on the grounds that other accommodation might be available for the appellant, and therefore there was no essential need for the development, they went on to conclude that very special circumstances also did not exist. They then carried out their Green Belt balancing exercise and concluded that in the absence of very special circumstances, the proposal conflicted with Green Belt policy. I therefore find that the Council has not acted unreasonably having assessed the proposal against Green Belt policy.

Conclusion

8. The applicant states that the appeal was unnecessary as the proposal complied with the development plan and material considerations. The Council exercised its planning judgement and justified its reasons for refusing the application. As such, I cannot agree that the Council has acted unreasonably in this case or that the application would otherwise have been approved.
9. Taking into account the matters raised, I find that unreasonable behaviour resulting in unnecessary or wasted expense within the appeal process, has not been demonstrated. The application for costs is refused.

E Symmons

INSPECTOR