



Costs Decision

Site visit made on 19 November 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 31 December 2019

Costs application in relation to Appeal Ref: APP/P2935/W/19/3231358 Stoney Hills, Greensfield, 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 Colin Barnes (The Northumberland Estates) for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for the outline application (with layout) – 15 dwellings (100% Self Build Plots) and Landscaped area – Amended 18/09/18
-

Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 PPG makes clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and not on *'vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.'*¹
4. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. The appellant lists a number of grounds for what, in their opinion, represent unreasonable behaviour by the Council, which are dealt with in turn below.

Landscape Impact

5. In this case, there is no dispute between the parties that there will be some change to the landscape, with the extent and acceptability of this change and mitigatory circumstances being a subjective matter. I note the submission of a Landscape Visual Impact Assessment (LVIA) that was submitted during the appeal process which concurred with the planning officer's original response which detailed the acceptability of the scheme.

¹ PPG, 049 Reference ID: 16-049-20140306, Dated 06 03 2014

6. It is clear that when Councillors were assessing the scheme during the Committee Meeting, that the LVIA was not up for consideration and that in their mind considering the evidence before them, which included local knowledge, that they disagreed with officer responses and sought that the scheme would be harmful to landscape character.
7. Whilst the LVIA supports the scheme, the applicant took it upon themselves to prepare this additional information to support the appeal. Whilst Councillors and planning officers would have benefited from this further information during determination of the application, I do not see that the Council acted unreasonably in line with the PPG.
8. Accordingly, I find that the Council did not fail to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. The Council had reasonable concerns about the impact of the proposed development which justified its decision. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.

Heritage Considerations

9. Heritage considerations are somewhat subjective and relied on the opinions between the Council Officers and that of the committee members and interested parties. Whilst there was information in the application with regards to archaeology, it is also noted that the appeal documents submitted by the applicant show no evidence of an assessment of surrounding heritage assets, their intangible and intangible relationships and heritage values in accordance with Paragraph 189 of the National Planning Policy Framework (the Framework). Whilst there is some mention of heritage assets in the LVIA, this does not represent a holistic approach to the assessment of heritage assets and their setting which goes beyond an assessment of views alone.
10. Having reviewed the surrounding assets in relation to relevant policy and guidance, there was seen to be harm to two heritage assets as a result of development within their setting. Whilst this harm was towards 'the lower end,' this harm still is required to be given considerable weight in the determination of the application.
11. Consequently, it has been shown that the committee members and interested party concerns were justified and that they had reasonable concerns which justified the refusal of the application on heritage grounds. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.

Highways

12. Given that access was a reserved matter, it was unclear specifically from the reason for refusal what was problematic in terms of highway safety. The committee members considered a number of concerns from interested parties as well as Council Officers as detailed in the Committee Minutes.
13. I do believe in this case that the Council has behaved unreasonably in that the specified reason for refusal is vague, however was based upon what it felt were accurate assertions. I also note that the PPG in awarding costs seeks to understand two issues, first that being whether the party has acted

- unreasonably, and second whether this has resulted in unnecessary and wasted expense.
14. The applicant in their appeal statement includes a very short rebuttal section in the Statement of Case which disagrees with the assessment by Committee and seeks that agreement is given to the Council Officer and Highways Team. I note that no additional traffic surveys or detailed discussions or reports were undertaken to relieve these concerns during the application process.
 15. Whilst I believe the Council did behave unreasonably in the wording of the reason for refusal, I do not feel that the amount of work that the applicant undertook in response resulted in a substantial amount of time which would have resulted in unnecessary and wasted expense.
 16. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

J Somers

INSPECTOR